

From: Munoz, Charles
Location: 4308 WJC-N
Importance: Normal
Subject: Ethics Training with Nancy Beck, Deputy Assistant Administrator for Toxics and Christian Palich, Deputy Associate Administrator for Intergovernmental Relations
Start Date/Time: Wed 5/3/2017 6:00:00 PM
End Date/Time: Wed 5/3/2017 7:00:00 PM

From: Fugh, Justina
Location: 4308 WJC-N
Importance: Normal
Subject: Accepted: Ethics Training with Nancy Beck, Deputy Assistant Administrator for Toxics and Christian Palich, Deputy Associate Administrator for Intergovernmental Relations
Start Date/Time: Wed 5/3/2017 6:00:00 PM
End Date/Time: Wed 5/3/2017 7:00:00 PM

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Mills, Derek[Mills.Derek@epa.gov]
From: Trudeau, Shaun
Sent: Thur 6/1/2017 4:20:17 PM
Subject: RE: For Kevin's binder

Thanks, Justina. I have printed it and will bring it to our weekly.

Shaun R. Trudeau

Attorney-Advisor

Special Assistant to the Principal Deputy
Office of General Counsel
U.S. Environmental Protection Agency
Office: 202.564.5127

From: Fugh, Justina
Sent: Thursday, June 01, 2017 10:49 AM
To: Trudeau, Shaun <Trudeau.Shaun@epa.gov>
Cc: Mills, Derek <Mills.Derek@epa.gov>
Subject: For Kevin's binder

Hi Shaun (and Derek) --

Here is the draft impartiality determination for Nancy Beck. I've set it up for Kevin's signature. We'll talk about it at the ethics weekly today, but I thought I'd send it to you for his binder. Not sure if Derek does that or, since it's ethics, it'll be Shaun, so sending to both of you.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

To: Trudeau, Shaun[Trudeau.Shaun@epa.gov]
Cc: Mills, Derek[Mills.Derek@epa.gov]
From: Fugh, Justina
Sent: Thur 6/1/2017 2:48:47 PM
Subject: For Kevin's binder
Nancy Beck impartiality determination.docx

Hi Shaun (and Derek) --

Here is the draft impartiality determination for Nancy Beck. I've set it up for Kevin's signature. We'll talk about it at the ethics weekly today, but I thought I'd send it to you for his binder. Not sure if Derek does that or, since it's ethics, it'll be Shaun, so sending to both of you.

Justina

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North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

To: Moody, Christina[Moody.Christina@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; Richardson, RobinH[Richardson.RobinH@epa.gov]
From: Fugh, Justina
Sent: Wed 5/24/2017 6:50:29 PM
Subject: RE: Briefing request

Hi Christina,

Sure, I can meet tomorrow and next week on Wed or Thurs, but the answer is that she is currently recused from participating on specific party matters in which ACC is a party or represents a party. She has been counseled and understands that, even with respect to rulemaking (which is a matter of general applicability), she cannot participate in discussions, etc. that relate to any comment that is offered by ACC. Consistent with the impartiality regulations, she will need to seek approval from an ethics official in order to participate in ACC specific party matters.

Best,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

-----Original Message-----

From: Moody, Christina
Sent: Wednesday, May 24, 2017 2:39 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>
Subject: Fw: Briefing request

I'd like to set up some time to meet to chat about this briefing request before going back to Michal with a response. Are folks available either tomorrow or early next week to discuss?

Please add others as necessary or appropriate.

Thanks!

Christina J. Moody
US Environmental Protection Agency
Moody.Christina@epa.gov

From: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Sent: Wednesday, May 24, 2017 2:33 PM
To: Moody, Christina; Kaiser, Sven-Erik
Cc: Freedhoff, Michal (EPW)
Subject: RE: Briefing request

Hi Christina

Apologies for the late thanks for your answer. I have some additional questions:

1) is Nancy Beck still an ADP and will she be one indefinitely? I have been told it is unusual (if not unprecedented) to have ADPs in a political deputy (or other leadership/supervisory type) role for anything other than a brief period.

2) While ADPs may be exempted from the Trump Ethics Pledge, they are not exempted from the standard OGE-promulgated ethics regulations. Taking a look at these regulations (see [here<https://www.oge.gov/Web/oge.nsf/0/DE333BC370BBCC4D85257F1500631025/\\$FILE/Impartiality%20Virtual%20Session%20Materials.pdf>](https://www.oge.gov/Web/oge.nsf/0/DE333BC370BBCC4D85257F1500631025/$FILE/Impartiality%20Virtual%20Session%20Materials.pdf) for an OGE presentation on them and for their text at the end of the presentation), these state that “An employee may not participate in a specific party matter: 1) that will directly and predictably affect the financial interest of a member of the employee’s household; or 2) in which someone with whom the employee has a “covered relationship” is or represents a party to the matter. (covered relationships clearly include previous employers). IF—A reasonable person with knowledge of the relevant facts would question his/her impartiality in the matter.

Other circumstances: An agency may disqualify an employee from participating in matters where circumstances, other than those described above, would cause a reasonable person with knowledge of the relevant facts to question an employee’s impartiality.

I think one could argue that Dr. Beck’s direct interactions with or about ACC could cause a reasonable person with knowledge of the relevant facts to question her impartiality, as would her direct involvement in chemical-specific rules (TCE/NMP/1BP or the 10 risk evaluations currently underway, in cases where ACC has provided specific comments or in which an ACC member-company is the manufacturer of the chemical involved), as also could her involvement with the TSCA framework rules given ACC’s role in both advancing and implementing the legislation as well as her own prior efforts as an ACC employee, especially related to TSCA implementation. And while the first part of the OGE regulations describes “specific party matters” (which could easily be read to include rules or risk evaluations related to a single chemical substance), the second part of the regulations just say “matters” and are explicitly said to relate to circumstances “other than those described above” (which could be more broadly read to include the TSCA framework rules).

In short, I don’t understand your response that asserts that all she needs to do to comply with ethics regulations is take ethics training – and I’d like to understand how the agency has directed her to comply with the ethics regulations that address potential questions about her impartiality. I reiterate my request for a briefing on this topic, and additionally request any documentation that either a) specifies any recusals she may have made, or b) includes the DAEO’s authorization for her to participate in these matters “based on a determination, made in light of all relevant circumstances, that the interest of the Government in the employee’s participation outweighs the concern that a reasonable person may question the integrity of the agency’s programs and operations” as the OGE regulations say must be made.

Thanks

Michal

Michal Ilana Freedhoff, Ph.D.

Director of Oversight

Committee on Environment and Public Works Democratic Staff

-----Original Message-----

From: Moody, Christina [mailto:Moody.Christina@epa.gov]

Sent: Wednesday, May 3, 2017 8:46 AM

To: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>; Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>

Subject: Re: Briefing request

Michal:

Nancy Beck has been appointed to an Administratively Determined position, which is authorized under the Safe Drinking Water Act at 42 U.S.C. § 300j-10. In this position, she is not required to sign the Trump Ethics Pledge as required by Executive Order 13,770. As a new employee, she is required by 5 C.F.R. § 2638.304 to have initial ethics training. Effective January 1, 2017, this training can be offered quarterly, so an entering employee may receive the initial ethics briefing anytime within his or her initial ninety days at the Agency.

Christina J. Moody

US Environmental Protection Agency

Moody.Christina@epa.gov<mailto:Moody.Christina@epa.gov>

From: Freedhoff, Michal (EPW)

<Michal_Freedhoff@epw.senate.gov<mailto:Michal_Freedhoff@epw.senate.gov>>

Sent: Saturday, April 29, 2017 10:55 AM

To: Kaiser, Sven-Erik; Moody, Christina

Subject: Briefing request

Hi there

I wasn't sure which of you to send this request to. I understand that Nancy Beck will soon be starting but hasn't yet arrived. I'd like to request a briefing for me and a couple of others with whoever is handling her ethics and recusal analysis and agreement so I can understand how she's planning to comply with the Ethics Pledge and the regulations/law as well.

Can you let me know when that can be scheduled?

Thanks

Michal

Sent from my iPhone



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

JUN - 8 2017

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Participation in Specific Party Matters Involving Your Former Employer, the American Chemistry Council

FROM: Kevin S. Minoli *KSM*
Designated Agency Ethics Official and
Acting General Counsel

TO: Nancy Beck, Ph.D., DABT
Deputy Assistant Administrator
Office of Chemical Safety and Pollution Prevention

Effective April 30, 2017, you joined the United States Environmental Protection Agency (EPA) in an Administratively Determined (AD) position as the Deputy Assistant Administrator for the Office of Chemical Safety and Pollution Prevention (OCSPP). In this position, you are responsible for advising the Acting Assistant Administrator in matters pertaining to chemical safety, pollution prevention, pesticides and toxic substances, including implementation of rulemaking under applicable federal statutes. Previous to your selection, you served as the Senior Director of Regulatory Science Policy at the American Chemistry Council (ACC), which represents companies that are directly regulated by EPA. You seek permission to participate in specific party matters involving your former employer.

In providing my advice, I have taken into consideration the fact that, as an AD appointment, you are not required to sign the Trump ethics pledge because this type of appointment falls outside the definition of "appointee" set forth at Executive Order 13,770 at Section 2(b).¹ You do not have any financial conflict of interest with your former employer, so the ethics rules to be applied to you are set forth in the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635, specifically Subpart E, "Impartiality in Performing Official Duty." Pursuant to 5 C.F.R. § 2635.502(b)(1)(iv), you have a "covered relationship" with ACC as your former employer. For one year from the time you resigned from ACC, absent an impartiality determination from me, you cannot participate in any specific party matter in which ACC is a party or represents a party if that matter is likely to have a direct and predictable financial effect upon the ACC or if the circumstances would cause a reasonable

¹ See Office of Government Ethics advisories entitled "Guidance on Executive Order 13770," LA-17-03 (3/20/27) and Executive Order 13770," LA-17-02 (2/6/17), which apply the following OGE advisories from the last administration in full: "Who Must Sign the Ethics Pledge?" DO-09-010 (3/16/09); and "Signing the Ethics Pledge," DO-09-005 (2/10/09).

person with knowledge of the relevant facts to question your impartiality. *See* 5 C.F.R. § 2635.502(a).

It is important to note that the ethical restriction applies only to particular matters involving specific parties, not to particular matters of general applicability. Generally speaking, a “specific party” matter is a “proceeding affecting the legal rights of parties, or an isolatable transaction or related set of transactions between identified parties.” *See* 5 C.F.R. § 2640.102(l). Rulemaking is not usually a “specific party” matter but rather a matter of general applicability, which involves “deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons.” *See* 5 C.F.R. § 2640.103(a)(1). Therefore, under the ethics regulations, you may participate in rulemaking, even if that rulemaking may affect the members of your former employer. While you can ethically work on rulemaking in general, you have been advised -- and understand -- that you cannot participate in any meetings, discussions or decisions that relate to any individual ACC comment nor attend any meeting at which ACC is present.

As provided by the ethics regulations, however, federal ethics officials can nonetheless permit employees to participate in matters that might raise impartiality concerns when the interest of the federal government in that employee’s participation outweighs concern over the questioning of the “integrity of the agency’s programs and operations.” *See* 5 C.F.R. § 2635.502(d). The factors that we can take into consideration are:

- (1) the nature of the relationship involved;
- (2) the effect that resolution of the matter will have upon the financial interest of the person affected in the relationship;
- (3) the nature and importance of the employee’s role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter;
- (4) the sensitivity of the matter;
- (5) the difficulty of reassigning the matter to another employee; and
- (6) adjustments that may be made in the employee’s duties that would reduce or eliminate the likelihood that a reasonable person would question the employee’s impartiality.

In reviewing these factors, I have decided to allow you to participate fully in matters of general applicability, including rulemaking, including consideration of any comments that were made by ACC. In making this determination, I have taken the following factors into consideration:

- While at ACC, you served as the Senior Director of Regulatory Science Policy and worked extensively on risk assessment, science policy and rulemaking issues;
- As ACC’s leading expert for ensuring sound implementation of risk assessment practices in the Frank R. Lautenberg Chemical Safety for the 21st Century Act, you have valuable expertise to share as the Agency considers how to implement this new statute;
- You have extensive prior expertise with the regulated industry’s perspective and are already familiar with (and may well have authored) ACC comments now under consideration. Because your prior knowledge is inherently part of your expertise, it is impractical to excise that knowledge from how you carry out your Agency duties;

- While you still participate in an ACC defined contribution plan, neither you nor your former employer continues to make contributions. Pursuant to federal ethics regulations, this type of employee benefit plan does not present any financial conflict of interest. See 5 C.F.R. § 2640.201(c);
- Your unique expertise, knowledge and prior experience will ensure that the Agency is able to consider all perspectives, including that of the regulated industry's major trade association;
- Although your type of appointment at EPA is not a political one, you currently serve in the only non-career position in the Office of Chemical Safety and Pollution Prevention. As such, you have a unique role in advising political staff, including the Administrator, and need to be able to be able to consider as many perspectives as you can; and
- Participation in rulemaking matters is integral to your position, so the Agency has a strong and compelling interest in ensuring that you are able to advise the Administrator, the Acting Assistant Administrator and career staff to the maximum extent possible.

Under the federal ethics regulations, you are permitted to participate in matters of general applicability (such as rulemaking) even if individual members of your former employer will be affected by that particular matter. Until now, you have recused yourself from participating personally and substantially in those comments to rulemaking that were offered by ACC. This impartiality determination confirms that you are permitted to participate in any discussions or consideration of comments submitted by ACC to rulemaking or other matters of general applicability. You may also attend meetings at which ACC is present or represented, but only if the following conditions are met: (a) the subject matter of the discussion is a particular matter of general applicability, (b) other interested non-federal entities are present besides only ACC, and (c) you are not the only Agency official at the meeting. This authorization will remain in effect for the remainder of your cooling off period. After April 21, 2018, you will no longer have a covered relationship with ACC under the impartiality standards and will no longer require this determination. I am attaching a recusal statement for you to sign and issue to your staff.

If you have any questions regarding this determination, or if a situation arises in which you need advice or clarification, please contact Justina Fugh at fugh.justina@epa.gov or (202) 564-1786.

Attachment

cc: Wendy Cleland-Hamnett, Acting Assistant Administrator
Justina Fugh, Senior Counsel for Ethics



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

June 9, 2017

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator

A handwritten signature in dark ink, appearing to read "Nancy Beck", is positioned to the right of the "FROM:" line.

TO: Wendy Cleland-Hamnett
Acting Assistant Administrator

Because I am in an Administratively Determined position, I have been advised by the Office of General Counsel/Ethics (OGC/Ethics) that I am not subject to Executive Order 13770 and therefore not required to sign the Trump ethics pledge. But as an executive branch employee, I have always understood that I am subject to the conflict of interest statutes codified at Title 18 of the United States Code and the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635. Pursuant to the federal impartiality standards, I have understood that I have a "covered relationship" with my former employer, the American Chemistry Council (ACC), and have recused myself from participating personally and substantially in any particular matter involving specific parties in which ACC is a party or represents a party. I was advised by OGC/Ethics that my recusal period commenced the day that I left ACC and would remain in effect for one year unless I was authorized by the Office of General Counsel/Ethics (OGC/Ethics) to participate pursuant to 5 C.F.R. 2635.502(d).

I have sought and obtained confirmation from OGC/Ethics that I can participate in particular matters of general applicability, such as rulemaking, even if my former employer has an interest, and that I can participate personally and substantially in any discussions or consideration of comments that ACC submitted with regard to rulemaking or other matters of general applicability. *See* attached. I am also now authorized to attend meetings at which ACC is present or represented, provided that the subject matter of the meeting is a matter of general applicability, if other interested non-federal parties are present, and other EPA personnel attend. For the remainder of my cooling off period, until April 21, 2018, however, I understand that I cannot otherwise participate in any specific party matter involving ACC unless I first seek approval from OGC/Ethics.

I am issuing this recusal statement to ensure that our staff assist me by directing any ACC specific party matter to you instead of me, without my knowledge or involvement, until after April 21, 2018. In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests or in my personal or business relationships.

cc: OCSPP senior staff
Justina Fugh, Senior Counsel for Ethics

To: Nancy Beck[Beck.Nancy@epamail.epa.gov]
Cc: Fugh, Justina[Fugh.Justina@epa.gov]; Morales, Oscar[Morales.Oscar@epa.gov]
From: Justina Fugh
Sent: Fri 9/22/2017 2:17:54 PM
Subject: Status of Your Ethics Travel Form Approval Request (Disapproved by DEO)

Justina Fugh, the Deputy Ethics Official (DEO) / Alternate DEO you selected, has disapproved your form 2610-3 (Approval to Accept Travel under Ethics Reform Act of 1990). If the form can be corrected by editing it, you will need to recertify the edited form by clicking the Yes button at the bottom of the form when you are finished.

for changes

Regards,
Justina Fugh
202-564-1786



To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Beck, Nancy
Sent: Fri 7/21/2017 12:08:36 AM
Subject: RE: Non Profit activities

Oye Vey! How can I possibly be a favorite client when I have screwed this up so badly!

Thanks for updating the 278 for me. I will find out when I started in both positions. I really don't think I have a fiduciary role in either, but perhaps I don't understand what that means. If its easiest I can simply remove myself from both positions. If I did remain on the board of EBTC, in a non-fiduciary role, it sounds like my participation would have to be on my own behalf and not as EPA at all, is that correct? Andy Rooney clearly represents NIEHS when he is at meetings, but it sounds like you are suggesting a different role for me.

I'm thinking it may be easiest to just drop both boards. Perhaps we can chat about this?

Thanks!
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Thursday, July 20, 2017 11:01 AM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Subject: RE: Non Profit activities

Hi Nancy,

I was on vacation all last week and am now slogging through emails. My “office husband” is retiring next week, and his party is this week, so I’m completely overwhelmed. I am SO SORRY to be tardy in responding to your note as you are one of my new favorite clients!

1) I am on the board of trustees of the Evidence Based Toxicology Collaboration. <http://www.ebtox.org/about-us/>. EBTC was formally founded in 2011 at Johns Hopkins Bloomberg School of Public Health with the vision to improve the public health outcomes and reduce human impact on the environment by bringing evidence-based approaches to safety sciences. Our mission: Bring together the international toxicology community to facilitate use of evidence-based toxicology to inform regulatory, environmental and public health decisions.

a. Is it ok for me to continue to participate on this board? The work they do is very relevant to the work we are doing in OCSPP. There is someone from NIEHS on the board and I believe he participates fully (but perhaps does not formally vote or comment on budget). My participation could be done from my personal computer on my personal time if that makes it easier.

JUSTINA: Oh dear, you did not report that position on your 278! It’s reportable as a “position held outside of government.” I will have to amend your report and adjust your recusal statement. When did that position start (month and year)? With regard to your ethics obligations, EPA cannot allow any employee to serve in official capacity in a fiduciary position with any outside organization. We lack the statutory authority to do so. I will have to check with NIEHS about Dr. Andrew Rooney and whether he serves in his official capacity or not. If he doesn’t, then you may continue to serve in your personal capacity, but you will have a financial conflict of interest with Johns Hopkins (because, under the financial conflict of interest statute, the interests of any organization that you serve in a fiduciary role are imputed to you). That’s why I will have to adjust your recusal statement too. You may add your EPA position to your bio, but you cannot represent EPA and you can’t allow your EPA position to have any undue influence (meaning that it can’t be the only thing you list).

2) I am a trustee of the Toxicology Education Foundation: <http://toxedfoundation.org/about/#mission>. The Toxicology Education Foundation (TEF) is a non-profit charitable 501 (c)(3) foundation whose mission is to enhance public understanding of toxicology through access to objective, science-based information on the safety of chemicals and other agents encountered in daily life.

a. I am also chair of the marketing subcommittee—which I’m planning to step down from as I simply don’t have time but would like to stay on as a trustee if I can. Currently someone from NIH participates as a Government Liaison, rather than as an official trustee. Is this a role I could switch to?

JUSTINA: Again, this role was not reported on your 278 and is not addressed in your recusal statement. As explained above, EPA cannot allow you to serve in your official capacity. I see from the website that Suzanne Fitzpatrick is listed as representing FDA and Philip Wexler is the government liaison. I infer that they are both serving in their official capacities (unlike EPA, NIH and FDA have statutory authority to allow employees to serve on outside boards in their official capacity). This means that you as a federal employee are barred by 18 USC 205 from representing the TEF back to those federal officials. If you want to serve in a fiduciary role in your personal capacity when there are federal employees serving in their official capacity, then you will be in violation of 18 USC 205. This result is desperately unfair and, I believe, an unexpected consequence of the representational conflict of interest statute. I have raised this issue with the Office of Government Ethics and with other federal officials, and we're completely gobsmacked about what to do about solving the problem. There is no waiver provision under the representational conflicts statutes.

I need to at least add this position to your 278 and your recusal statement, so tell me when you started (month and year). Then you need to think about whether you really want to continue to serve as a trustee. You can do so only in your personal capacity, but be mindful of the fact that, if you continue, you will technically be representing the interests of another (the board) back to the United States (the feds who serve in their official capacity). Quite frankly, many people (including ethics officials) simply ignore this problem.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Monday, July 17, 2017 12:28 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Fwd: Non Profit activities

Justina,

Any thought on this?

Thanks.

Nancy.

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: (b) (6)
Beck.Nancy@epa.gov

Begin forwarded message:

From: "Beck, Nancy" <Beck.Nancy@epa.gov>
Date: July 7, 2017 at 6:55:03 PM EDT
To: "Fugh, Justina" <Fugh.Justina@epa.gov>
Subject: Non Profit activities

Justina,

I wanted to check with you regarding my participation with two non-profits. Both are toxicology related and relevant for the work I'm doing at EPA.

1) I am on the board of trustees of the Evidence Based Toxicology Collaboration. <http://www.ebtox.org/about-us/>. EBTC was formally founded in 2011 at Johns Hopkins Bloomberg School of Public Health with the vision to improve the public health outcomes and reduce human impact on the environment by bringing evidence-based approaches to safety sciences. Our mission: Bring together the international toxicology community to

facilitate use of evidence-based toxicology to inform regulatory, environmental and public health decisions.

a. Is it ok for me to continue to participate on this board? The work they do is very relevant to the work we are doing in OCSPP. There is someone from NIEHS on the board and I believe he participates fully (but perhaps does not formally vote or comment on budget). My participation could be done from my personal computer on my personal time if that makes it easier.

2) I am a trustee of the Toxicology Education Foundation:
<http://toxedfoundation.org/about/#mission>. The Toxicology Education Foundation (TEF) is a non-profit charitable 501 (c)(3) foundation whose mission is to enhance public understanding of toxicology through access to objective, science-based information on the safety of chemicals and other agents encountered in daily life.

a. I am also chair of the marketing subcommittee—which I'm planning to step down from as I simply don't have time but would like to stay on as a trustee if I can. Currently someone from NIH participates as a Government Liaison, rather than as an official trustee. Is this a role I could switch to?

Please let me know what other information you may need.

Thanks,
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

GOVERNMENT SPEAKER RELEASE

This is to confirm that the undersigned has agreed to participate as a presenter in the Environmental Law Institute (“ELI”) seminar (“the Seminar”) entitled:

“TSCA Reform – One Year Later”

The Presenter acknowledges the presentation and/or written materials has been authored by a U.S. government employee acting within his or her official capacity, and therefore falls under the coverage of 17 U.S.C. § 105.

The Presenter acknowledges that ELI has the right to use the Presenter’s name, persona, photograph, biography, voice, likeness, speaker presentation, and/or written materials in connection with the Seminar.

The Presenter acknowledges that ELI has the right to edit the presentation and/or written materials, but does not obligate ELI to publish the Presenter’s presentation or other materials.

The Presenter represents that the presentation and/or written materials are original to the Presenter and to the best of the Presenter’s knowledge do not infringe upon any copyright, proprietary right, or any other right whatsoever of any party and that the Presenter has made no agreements inconsistent with this Release. The Presenter further represents that to the best of the Presenter’s knowledge the presentation and/or written materials contains no matter that is scandalous, obscene, or libelous or otherwise contrary to law.

The Presenter hereby acknowledges and agrees that ELI has the right to broadcast live video content, reproduce, and/or distribute any video, audio, written, or visual materials submitted or made in connection with the Seminar, and to make the presentation and/or written materials available in physical and electronic form, including mounting a copy of the presentation and/or written materials on media servers where the presentation and/or written materials may be copied, downloaded, and/or printed by persons accessing the servers, and acknowledges the presentation and/or written materials may be used and distributed without seeking further the Presenter approval.

(signature)

(name printed)

(date)

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Beck, Nancy
Sent: Fri 9/8/2017 5:12:06 PM
Subject: RE: your recusal statement didn't designate someone else

For participation in this particular matter, I think it should be Jeff Morris, the Office Director. Once we have a PDAA, it should probably be that person.

Thank you!

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Friday, September 8, 2017 12:57 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: your recusal statement didn't designate someone else

Hi again,

We didn't suggest that you designate anyone to participate in your absence, and now it's inappropriate for you to participate by telling us who should participate in this specific party matter instead of you. But I can ask you to tell me, going forward, what person you would like us to contact to make those decisions generally. I was thinking either the affected office director or Louise Wise. Any preference?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Friday, September 08, 2017 12:21 PM
To: Beck, Nancy <beck.nancy@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

Hi Nancy,

I was out of the office this morning to Ex. 6 - Personal Privacy and have a strict rule that I don't read emails or text while driving! Consequently, I didn't see your message until I got into the office. I did talk to Brian Grant, who explained that ACC, the entity with whom you have a covered relationship pursuant 5 CFR 2635.502(b)(iv), has filed a motion to intervene in a lawsuit. Although the court has not yet ruled on that motion, we are now on notice about ACC's intention. For ethics purposes, the lawsuit is a specific party matter and your recusal indicates that you will not participate in any such matter in which ACC is a party or represents a party unless you first seek approval from OGC/Ethics. The terms of your 6/9/17 recusal and the 6/8/17 impartiality determination do not extend to your participation in this lawsuit now that we know ACC plans to participate as a specific party. You are not permitted to participate in this litigation going forward, and cannot participate in the phone call later today.

You may ask OGC/Ethics to consider issuing an impartiality determination. We will consider your request and apply the regulatory factors set forth at 5 CFR 2635.502(d): (1) the nature of the relationship involved; (2) the effect that resolution of the matter would have upon the financial interests of the person involved in the

relationship; (3) the nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in

the matter; (4) the sensitivity of the matter; (5) The difficulty of reassigning the matter to another employee; and (6) adjustments that may be made in

the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

To be clear, until such time as OGC/Ethics issues you any impartiality determination – and I am not yet indicating that we would – you cannot participate in this litigation.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Friday, September 08, 2017 7:35 AM
To: Grant, Brian <Grant.Brian@epa.gov>
Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>; Morris, Jeff <Morris.Jeff@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

Great—lets find a window. I think that after 11:30 I could generally make it work and move meetings around.

Regarding participation, I refer to OGE on that and am looping in Justina. ACC commented on the proposed rule and I was allowed to participate on the final rule so I'm not exactly sure how this is similar/different.

However, I would think that until they actually intervene, there should be no concern.

Thanks.

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Grant, Brian

Sent: Friday, September 8, 2017 7:32 AM

To: Beck, Nancy <Beck.Nancy@epa.gov>

Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>;
Morris, Jeff <Morris.Jeff@epa.gov>

Subject: Conversation with DOJ -- ACC involvement

Good morning, Nancy. The DOJ attorneys working on the prioritization and RE cases have approval to talk with you about consolidation and can do so this morning.

However, they have received notice that ACC plans to intervene in the case. Can you participate?

Brian Grant
Office of General Counsel
202-564-5503

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]
From: Beck, Nancy
Sent: Fri 9/8/2017 5:09:45 PM
Subject: RE: Conversation with DOJ -- ACC involvement

Thanks Justina,

I support your strict rule about driving, so no worries here.

By this note, I would like to request OGC/Ethics consider issuing an impartiality determination. I recognize that we can't predict the outcome of this and now that we know ACC has intervened, I will consider myself recused from participating in this current litigation. Please keep me posted on the outcome the evaluation.

I should probably sit down with you to better understand what exactly this recusal means and get some examples of what I can and cannot do. Please let me know when you have time.

Many thanks,
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Friday, September 8, 2017 12:21 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

Hi Nancy,

I was out of the office this morning to **Ex. 6 - Personal Privacy** and have a strict rule that I don't read emails or text while driving! Consequently, I didn't see your message until I got into the office. I did talk to Brian Grant, who explained that ACC, the entity with whom you have a covered relationship pursuant 5 CFR 2635.502(b)(iv), has filed a motion to intervene in a lawsuit. Although the court has not yet ruled on that motion, we are now on notice about ACC's intention. For ethics purposes, the lawsuit is a specific party matter and your recusal indicates that you will not participate in any such matter in which ACC is a party or represents a party unless you first seek approval from OGC/Ethics. The terms of your 6/9/17 recusal and the 6/8/17 impartiality determination do not extend to your participation in this lawsuit now that we know ACC plans to participate as a specific party. You are not permitted to participate in this litigation going forward, and cannot participate in the phone call later today.

You may ask OGC/Ethics to consider issuing an impartiality determination. We will consider your request and apply the regulatory factors set forth at 5 CFR 2635.502(d): (1) the nature of the relationship involved; (2) the effect that resolution of the matter would have upon the financial interests of the person involved in the

relationship; (3) the nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in

the matter; (4) the sensitivity of the matter; (5) The difficulty of reassigning the matter to another employee; and (6) adjustments that may be made in

the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

To be clear, until such time as OGC/Ethics issues you any impartiality determination – and I am not yet indicating that we would – you cannot participate in this litigation.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Friday, September 08, 2017 7:35 AM
To: Grant, Brian <Grant.Brian@epa.gov>
Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>; Morris, Jeff <Morris.Jeff@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

Great—lets find a window. I think that after 11:30 I could generally make it work and move meetings around.

Regarding participation, I refer to OGE on that and am looping in Justina. ACC commented on the proposed rule and I was allowed to participate on the final rule so I'm not exactly sure how this is similar/different.

However, I would think that until they actually intervene, there should be no concern.

Thanks.

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Grant, Brian
Sent: Friday, September 8, 2017 7:32 AM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>; Morris, Jeff <Morris.Jeff@epa.gov>
Subject: Conversation with DOJ -- ACC involvement

Good morning, Nancy. The DOJ attorneys working on the prioritization and RE cases have approval to talk with you about consolidation and can do so this morning.

However, they have received notice that ACC plans to intervene in the case. Can you participate?

Brian Grant
Office of General Counsel
202-564-5503

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Grant, Brian[Grant.Brian@epa.gov]; Mclean, Kevin[Mclean.Kevin@epa.gov]; Celeste, Laurel[celeste.laurel@epa.gov]; Morris, Jeff[Morris.Jeff@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Wise, Louise[Wise.Louise@epa.gov]; Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Beck, Nancy
Sent: Fri 9/8/2017 4:56:27 PM
Subject: Re: Determination regarding Nancy Beck today

Thank you Justina.

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: (b) (6)
Beck.Nancy@epa.gov

On Sep 8, 2017, at 12:25 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,

Set forth below is the determination that I made earlier today about whether Dr. Nancy Beck may participate in discussions about a lawsuit in which we now know of ACC's intention to intervene. As you know, Dr. Beck is not a political appointee so is not subject to the terms of Executive Order 13,770, nor is she an attorney subject to state bar rules. As an Administratively Determined appointee, Dr. Beck is, however, subject to the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR Part 2635, and the impartiality standards regarding her former employer, ACC.

At this time, Dr. Beck is recused from any participation in the lawsuit now that we know ACC intends to intervene.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Friday, September 08, 2017 12:21 PM
To: Beck, Nancy <beck.nancy@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

Hi Nancy,

I was out of the office this morning to Ex. 6 - Personal Privacy and have a strict rule that I

don't read emails or text while driving! Consequently, I didn't see your message until I got into the office. I did talk to Brian Grant, who explained that ACC, the entity with whom you have a covered relationship pursuant 5 CFR 2635.502(b)(iv), has filed a motion to intervene in a lawsuit. Although the court has not yet ruled on that motion, we are now on notice about ACC's intention. For ethics purposes, the lawsuit is a specific party matter and your recusal indicates that you will not participate in any such matter in which ACC is a party or represents a party unless you first seek approval from OGC/Ethics. The terms of your 6/9/17 recusal and the 6/8/17 impartiality determination do not extend to your participation in this lawsuit now that we know ACC plans to participate as a specific party. You are not permitted to participate in this litigation going forward, and cannot participate in the phone call later today.

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To be clear, until such time as OGC/Ethics issues you any impartiality determination – and I am not yet indicating that we would – you cannot participate in this litigation.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Friday, September 08, 2017 7:35 AM
To: Grant, Brian <Grant.Brian@epa.gov>
Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>; Morris, Jeff <Morris.Jeff@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

Great—lets find a window. I think that after 11:30 I could generally make it work and move meetings around.

Regarding participation, I refer to OGE on that and am looping in Justina. ACC commented on the proposed rule and I was allowed to participate on the final rule so I'm not exactly

sure how this is similar/different.
However, I would think that until they actually intervene, there should be no concern.

Thanks.

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: (b) (6)
beck.nancy@epa.gov<<mailto:beck.nancy@epa.gov>>

From: Grant, Brian
Sent: Friday, September 8, 2017 7:32 AM
To: Beck, Nancy <Beck.Nancy@epa.gov<<mailto:Beck.Nancy@epa.gov>>>
Cc: Mclean, Kevin <Mclean.Kevin@epa.gov<<mailto:Mclean.Kevin@epa.gov>>>; Celeste, Laurel <celeste.laurel@epa.gov<<mailto:celeste.laurel@epa.gov>>>; Morris, Jeff <Morris.Jeff@epa.gov<<mailto:Morris.Jeff@epa.gov>>>
Subject: Conversation with DOJ -- ACC involvement

Good morning, Nancy. The DOJ attorneys working on the prioritization and RE cases have approval to talk with you about consolidation and can do so this morning.

However, they have received notice that ACC plans to intervene in the case. Can you participate?

Brian Grant
Office of General Counsel
202-564-5503

<Recusal Statement Beck.pdf>

<Impartiality determination final.pdf>

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Beck, Nancy
Sent: Tue 8/1/2017 1:53:23 PM
Subject: RE: Gentle reminder from OGC/Ethics: Any transactions to report?

Thanks Justina,

Ex. 6 - Personal Privacy so I think I'm good— **Ex. 6 - Personal Privacy** Phew..

How's about Friday at 3:15 to talk about my getting off my non profit boards?

Thanks!

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Tuesday, August 1, 2017 9:40 AM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Subject: RE: Gentle reminder from OGC/Ethics: Any transactions to report?

Hi Nancy,

Yes, I'm here on Friday. That's the easy part. Now the harder part. Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

If the **Ex. 6 - Personal Privacy** and no single transaction is \$1000 or more, then you DO NOT have to report that transaction. You report only those transactions (purchase or sale) of \$1000 or more, which I don't think is what happens with you.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Tuesday, August 01, 2017 7:24 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Gentle reminder from OGC/Ethics: Any transactions to report?

Justina,

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Do I need to report this.

Also, are you here this Friday?

Thanks!

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: DCOGCLN1/DC/USEPA/US [mailto:DCOGCLN1/DC/USEPA/US@epamail.epa.gov]

Sent: Tuesday, August 1, 2017 3:00 AM

To: Nancy Beck <Beck.Nancy@epamail.epa.gov>

Subject: Gentle reminder from OGC/Ethics: Any transactions to report?

---- This is your gentle reminder from OGC/Ethics: Do you have a periodic transaction to report?? ----

Dear 278 Filer –

Because you file the OGE 278e, you are also required to file periodic transaction reports using the OGE 278T using INTEGRITY, the new online financial disclosure system created and maintained by the Office of Government Ethics (<https://www.integrity.gov>). You must file a periodic transaction report when you purchase, sell, or exchange certain investments like stocks, bonds, commodities futures, options or other forms of securities if the amount of the transaction exceeds \$1,000. These transactions are reportable even if they occur within brokerage accounts, managed accounts, or other investment vehicles that you own or that are owned by anyone else whose interests are imputed to you (i.e., spouse and/or dependent children).

Please note that not all transactions are reportable on this periodic basis. Don't report transactions of less than \$1000 at a time. And you don't have to file a 278T for transactions involving investments such as mutual funds, exchange traded funds, real estate, or U.S. Treasury notes.

If you have a reportable periodic transaction, then you must file the OGE 278T in INTEGRITY within 30 days of receiving notification of the transaction, but not later than 45 days after the transaction occurs. You can be fined \$200 for any missed periodic report. If you don't have any reportable transactions, then don't submit a negative report. Keep track of your transactions because even if they aren't reportable periodically, they may still be reportable Schedule B of your next annual filing. Also, the INTEGRITY system will allow you to upload your transactions automatically into the appropriate annual report.

For more assistance on INTEGRITY, check out the OGC/Ethics help page at:
<http://intranet.epa.gov/ogc/Integrity/Landingpage.html>

Thanks!

The OGC/Ethics team

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Beck, Nancy
Sent: Thur 5/25/2017 9:40:46 PM
Subject: another ethics question

Justina,

Are there any restrictions regarding my participating on panels or giving talks at scientific meetings?

I presume I would have to somehow get this approved by management, but otherwise would there be any ethics concerns?

This would scientific meetings that if they involved travel, I'm sure EPA would pay my way (and I likely would go to the meeting anyways)

Thanks!
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Jackson, Ryan[jackson.ryan@epa.gov]
Cc: Fugh, Justina[Fugh.Justina@epa.gov]
From: Bowman, Liz
Sent: Wed 6/21/2017 10:56:10 PM
Subject: FW: documents related to Nancy Beck
[Impartiality determination final.pdf](#)
[Recusal Statement Beck.pdf](#)
[correspondence with OGE on ADs.pdf](#)
[correspondence with OGE on ADs in 2009.pdf](#)

-----Original Message-----

From: Fugh, Justina
Sent: Wednesday, June 21, 2017 6:05 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Bowman, Liz <Bowman.Liz@epa.gov>
Subject: documents related to Nancy Beck

Hi there,

You asked for copies of the ethics documents related to Nancy Beck, so here they are.

By the way, the definition of appointee under Executive Order 13770 (and who signs the pledge) is unchanged from Executive Order 13,490 (and who signed the Obama pledge). With respect to the Administratively Determined appointees, I had consulted with the Office of Government of Ethics back in 2009 and confirmed that they did not meet the definition of "appointee" for the purposes of the pledge. Although I don't have any written response from 2009, OGE recently re-confirmed this determination and (I understand) replied to a congressional inquiry that they agree the ADs are not appointees subject to the pledge. I think I'm going to ask OGE for a copy of that response for my files.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

-----Original Message-----

From: Fugh, Justina
Sent: Friday, June 09, 2017 4:28 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Subject: RE: Heads up

Hi Liz,

Nancy Beck signed her recusal statement (see attached). One correction she made necessitated my updating her impartiality determination (she left ACC a week earlier than I realized). So here is the final recusal and the final (really) impartiality determination. I definitely won't be sending these out until next week.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room

4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

-----Original Message-----

From: Bowman, Liz
Sent: Thursday, June 08, 2017 7:08 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Heads up

Thank you for the heads up and the summary! Very helpful

Sent from my iPhone

> On Jun 8, 2017, at 6:22 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

>

> Hi Liz,

> Earlier today, Kevin Minoli signed an impartiality determination for Nancy Beck (see attached). I also sent her a draft recusal statement to sign. Once she does, I'll be able to respond to a bunch of FOIAs and a congressional or two. I will not be able to do any responses until next week at best, but thought I'd give you this heads up now! I have shared this document only with Nancy, Wendy Cleland-Hamnett (the acting AA), and one or two OGC managers, but it's a useful document, so people will surely share it.

>

> Here's a quick summary: With this writing, the Designated Agency Ethics Official confirms that Nancy Beck is permitted to participate in matters of general applicability, including rulemaking, even if her former employer, the American Chemistry Council, has an interest. In addition, he has determined that she may participate in specific comments that are offered by ACC in rulemaking and that she may attend certain meetings at which ACC is present (provided that the discussion is on a particular matter of general applicability and other interested non-federal entities are present as well as other EPA officials). The determination covers the remainder of her one year cooling off period (until April 29, 2018), when it will no longer be necessary. After the cooling off period expires, she may participate freely with ACC.

>

> Cheers,

> Justina

>

> Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

>

>

>

> <Impartiality determination final.pdf>

To: Fotouhi, David[Fotouhi.David@epa.gov]
Cc: Fugh, Justina[Fugh.Justina@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Beck, Nancy
Sent: Fri 9/29/2017 2:51:53 PM
Subject: RE: Question for you

Thank you all!
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fotouhi, David
Sent: Friday, September 29, 2017 10:45 AM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: RE: Question for you

Hi, Nancy. Thanks for reaching out. Let me discuss this with Justina and Kevin (whom I've added to this chain) and get back to you as soon as possible.

Best,

David

David Fotouhi

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

From: Beck, Nancy

Sent: Friday, September 29, 2017 10:37 AM

To: Fotouhi, David <Fotouhi.David@epa.gov>

Cc: Fugh, Justina <Fugh.Justina@epa.gov>

Subject: Question for you

David,

I'm supposed to give a talk next Friday at the National Academies board meeting about our TSCA implementation. This is a closed door meeting however one of the board members is Bob Sussman, who is lead counsel for SCHF which is suing us on the TSCA rules. I'm wondering what this means for my ability to give a general talk about the rules and our TSCA implementation. Similarly, in 2 weeks I am supposed to give a similar update to the local Society of Toxicology chapter on TSCA, where participants/attendees may likely include some from the groups that are suing us. If it wasn't me giving these talks, it would be Jeff Morris or someone from his shop.

Are there constraints on what we (OCSPP) can/cannot talk about publicly for the next 6 months or so while these rules are being litigated? I cant imagine a scenario where we are silenced in talking about our implementation publicly but if there are certain areas we need to stay away from please let me know. I am still recused from working on the litigation but I'm not sure that impacts my ability, or OPPTs ability to talk generally about our TSCA implementation.

If you want to talk about this, I can be reached on my cell all day (number below).

Thanks.

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Graham, Amy[graham.amy@epa.gov]; Beck, Nancy[Beck.Nancy@epa.gov]
From: Bowman, Liz
Sent: Wed 6/21/2017 7:28:38 PM
Subject: RE: Questions/comment on TSCA memo

I love your last sentence! Thank you, Justina!

From: Fugh, Justina
Sent: Wednesday, June 21, 2017 3:25 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Graham, Amy <graham.amy@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>
Subject: RE: Questions/comment on TSCA memo

Hi Liz,

Under the federal ethics laws and regulations, Dr. Beck is not required to be nor is she recused from participating in matters of general applicability, which includes rulemaking. She therefore did not need any ethics waiver. Consistent with federal ethics rules, she received an impartiality determination from the Designated Agency Ethics Official that confirmed she can participate in discussions and consideration of comments submitted by her former client on rulemaking and also permits her, under limited circumstances, to attend meetings at which ACC is present or represented.

If they want a copy of the impartiality document, they can send me a FOIA request and I'll add it to my list. Very long list.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Bowman, Liz
Sent: Wednesday, June 21, 2017 2:55 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Graham, Amy <graham.amy@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>
Subject: FW: Questions/comment on TSCA memo

Hi Justina – Per the comment from a reporter below, can you send me details on Nancy Beck's recusals with regard to working on TSCA implementation rules? A reporter is asking by 4 p.m.
Thank you – Liz

-

From reporter:

Also, we have questions about OCSPP Deputy Nancy Beck's involvement in this rulemaking process. She submitted comments while at the American Chemistry Council before joining EPA. Is she recused from this rulemaking, or has she received an ethics waiver from EPA's ethics official? If she has, what is the extent of the waiver? Is she barred from involvement with ACC's comments only, or are there broader restrictions?

Our deadline is 4 p.m.

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Wise, Louise[Wise.Louise@epa.gov]
From: Beck, Nancy
Sent: Mon 9/25/2017 4:01:02 PM
Subject: RE: confirmation
[New TSCA Petition 2.pdf](#)
[New TSCA Petition.pdf](#)
[NRDC.RE rule challenge.pdf](#)
[NRDC.Risk prioritization challenge.pdf](#)

Justina-

Attached are 4 of the petitions. I recall hearing there was a 5th but I don't have a copy so PTSLO will have to assist with that.

Thanks again,
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Friday, September 22, 2017 7:14 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Wise, Louise <Wise.Louise@epa.gov>
Subject: RE: confirmation

Oh, let's start with just need the case names if you have that handy. We can track down the case numbers from PTSLO if necessary.

From: Beck, Nancy
Sent: Friday, September 22, 2017 5:47 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Wise, Louise <Wise.Louise@epa.gov>
Subject: Re: confirmation

Got it. Thanks Justina for the update.

Can you get the case numbers from PTSLO or if that something I should track down (on Monday)?

Have a great weekend as well.

Nancy.

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: (b) (6)
Beck.Nancy@epa.gov

On Sep 22, 2017, at 5:44 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Nancy,

This quick note confirms that OGC is inclined to grant you an impartiality determination to allow you to participate in litigation even though your former employer, ACC, has filed a motion to intervene. We need the name of the case or cases, please, and remind you that until you receive the actual written determination, you should still be recused from participation. You may passively receive publicly available information, but please be mindful of the fact that you ought not actively seek that information.

Have a great weekend,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Fotouhi, David[Fotouhi.David@epa.gov]
Cc: Fugh, Justina[Fugh.Justina@epa.gov]
From: Beck, Nancy
Sent: Fri 9/29/2017 2:37:14 PM
Subject: Question for you

David,

I'm supposed to give a talk next Friday at the National Academies board meeting about our TSCA implementation. This is a closed door meeting however one of the board members is Bob Sussman, who is lead counsel for SCHF which is suing us on the TSCA rules. I'm wondering what this means for my ability to give a general talk about the rules and our TSCA implementation. Similarly, in 2 weeks I am supposed to give a similar update to the local Society of Toxicology chapter on TSCA, where participants/attendees may likely include some from the groups that are suing us. If it wasn't me giving these talks, it would be Jeff Morris or someone from his shop.

Are there constraints on what we (OCSPP) can/cannot talk about publicly for the next 6 months or so while these rules are being litigated? I cant imagine a scenario where we are silenced in talking about our implementation publicly but if there are certain areas we need to stay away from please let me know. I am still recused from working on the litigation but I'm not sure that impacts my ability, or OPPTs ability to talk generally about our TSCA implementation.

If you want to talk about this, I can be reached on my cell all day (number below).

Thanks.

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Beck, Nancy
Sent: Tue 9/12/2017 6:18:35 PM
Subject: Re: Invitation to Speak at NCAC / American Chemical Society Chemical Society of Washington October 13th Symposium

Phew. But it's nice to see you are looking at these closely and keeping me in mind! I like that.

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: (b) (6)
Beck.Nancy@epa.gov

On Sep 12, 2017, at 2:16 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Oops, it is indeed ACS not ACC (reading too quickly). Sorry about that!

From: Beck, Nancy
Sent: Tuesday, September 12, 2017 2:06 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Invitation to Speak at NCAC / American Chemical Society Chemical Society of Washington October 13th Symposium

I thought the meeting was at ACS, not ACC. See bold at the bottom of chain.

Nancy.

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: (b) (6)
Beck.Nancy@epa.gov

On Sep 12, 2017, at 1:57 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hey, did you see that this event will be held at the ACC offices? If you wish to do this event, you should send me a request so that we can identify whether ACC is a co sponsor or not. If it is, then we will need to assess this invitation under the impartiality

standards.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Dourson, Michael (doursoml) [mailto:doursoml@ucmail.uc.edu]
Sent: Monday, September 11, 2017 3:47 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Beck, Nancy <Beck.Nancy@epa.gov>
Subject: FW: Invitation to Speak at NCAC / American Chemical Society Chemical Society of Washington October 13th Symposium

Justina

I originally got this invitation to speak, but then passed it on to our university folks since my confirmation timing was up in the air. My university colleagues cannot make this event, however. Now my confirmation is on September 20, and I may be working at EPA by the time of this meeting, but not in a confirmed capacity. So does it seem reasonable to give this talk from a university professor viewpoint. I am ok with either giving the talk or not, but do not want to leave the group hanging.

What do you think?

I apologize for all of the extra work, but then again, I successfully passed on my Bermuda trip this January to a stellar university professor.

Cheers!

Michael

—The right to search for the truth implies also a duty; one must not conceal any part of what one has recognized to be true. Albert Einstein.

<image003.jpg>

From: Margaret Whittaker <Mwhittaker@toxservices.com>

Date: Monday, September 11, 2017 at 2:00 PM

To: Jacqueline Patterson <PATTEJI@ucmail.uc.edu>

Cc: Michael Dourson <doursoml@ucmail.uc.edu>

Subject: RE: Invitation to Speak at NCAC / American Chemical Society Chemical Society of Washington October 13th Symposium

Dear Jacqueline,

Hello to you, and thank you for the reply! Attached is the current flyer. If you or Mike have any potential suggested speakers, I'm all ears.

Sincerely,

Meg

Margaret H. Whittaker, Ph.D., M.P.H., CBiol., F.R.S.B., E.R.T., D.A.B.T.

Managing Director and Chief Toxicologist
ToxServices LLC
1367 Connecticut Avenue, N.W., Suite 300
Washington, D.C. 20036
(202) 429-8787 (US telephone)

+44(0) 20 3318 3429 (UK telephone)
(202) 429-8788 (fax)
www.toxservices.com

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[<image002.gif>](#)

From: Patterson, Jacqueline (patteji) [<mailto:PATTEJI@ucmail.uc.edu>]
Sent: Monday, September 11, 2017 1:22 PM
To: Margaret Whittaker <Mwhittaker@toxservices.com>
Cc: Dourson, Michael (doursoml) <doursoml@ucmail.uc.edu>
Subject: Re: Invitation to Speak at NCAC / American Chemical Society Chemical Society of Washington October 13th Symposium

Hi meg. My apologies for delay in responding. I will not be able to accept this invite. Mike might have another idea. I think he's going to contact you.

Thank you.

Jacqueline

Sent from my iPhone

On Sep 11, 2017, at 12:41 PM, Margaret Whittaker <Mwhittaker@toxservices.com> wrote:

Dear Jacqueline,

Hello again to you. We are finalizing our speaker list for the symposium, and I

wanted to follow up on my September 1st and 6th emails. Are you interesting and available to speak at the symposium? I have attached the updated symposium agenda. Thank you again for your time and consideration.

Sincerely,

Meg

From: Margaret Whittaker

Sent: Wednesday, September 06, 2017 9:12 PM

To: 'Patterson, Jacqueline (patteji)' <PATTEJI@ucmail.uc.edu>

Cc: 'Jennifer Tanir' <Ex. 6 - Personal Privacy>

Subject: RE: Invitation to Speak at NCAC/ American Chemical Society
Chemical Society of Washington October 13th Symposium

Dear Jacqueline,

Hello to you. I wanted to confirm that you would be available to speak at the October 13th symposium. Is the proposed title of your talk acceptable, or do you have an alternate title for a presentation. My assistant Charles can coordinate your travel. Attached is the current agenda.

Sincerely,

Meg

Margaret H. Whittaker, Ph.D., M.P.H., CBiol., F.R.S.B., E.R.T., D.A.B.T.

Managing Director and Chief Toxicologist
ToxServices LLC
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+44(0) 20 3318 3429 (UK telephone)
(202) 429-8788 (fax)
www.toxservices.com

Find us on Facebook!

<image001.gif>

From: Margaret Whittaker

Sent: Friday, September 01, 2017 9:07 AM

To: 'Dourson, Michael (doursoml)' <doursoml@ucmail.uc.edu>

Cc: Chen, Tracy <Tracy.Chen@fda.hhs.gov>; Jason E. Schaff

<Ex. 6 - Personal Privacy>; Jennifer Tanir <Ex. 6 - Personal Privacy> Patterson, Jacqueline (patteji) <PATTEJI@ucmail.uc.edu>; Beck, Nancy <Beck.Nancy@epa.gov>

Subject: RE: Invitation to Speak at NCAC / American Chemical Society Chemical Society of Washington October 13th Symposium

Dear Mike,

Good morning to you, and thank you for getting back to us right away. We just heard back from Nancy, and she is waiting to see if she has to travel internationally for the Agency, and will update us by mid-Sept. Thank you for the suggestion re Jacqueline. Good luck on your confirmation!

Dear Jacqueline—are you available and interested in speaking? It would be very good to have non-governmental/non-NGO viewpoint during the symposium, too.

Sincerely,

Meg

From: Dourson, Michael (doursoml) [mailto:doursoml@ucmail.uc.edu]

Sent: Friday, September 01, 2017 8:03 AM

To: Margaret Whittaker <Mwhittaker@toxservices.com>

Cc: Chen, Tracy <Tracy.Chen@fda.hhs.gov>; Jason E. Schaff

<Ex. 6 - Personal Privacy>; Jennifer Tanir <Ex. 6 - Personal Privacy>; Patterson, Jacqueline (patteji) <PATTEJI@ucmail.uc.edu>; Beck, Nancy <Beck.Nancy@epa.gov>

Subject: Re: Invitation to Speak at NCAC / American Chemical Society
Chemical Society of Washington October 13th Symposium

Meg

As listed on your program, I have been nominated by President Trump as the assistant administrator of EPA's Office of Chemical Safety and Pollution Prevention. As you know, this is the same office that manages the new TSCA legislation. It is an exciting and humbling opportunity, but one that requires senate confirmation. My committee hearing is slated for some time in late September, with a full senate vote sometime later (presuming that I get voted out of the EPW committee).

So... while I would like to speak at your event, the timing is somewhat problematic. If Nancy Beck agrees to speak, then she can more easily cover any aspect of this new legislation as the principal deputy assistant administrator in this office. Or if you are looking for a university voice, then perhaps ask Jacqueline Patterson of our Risk Science Center. Jacqueline is quite adept at managing independent peer reviews, and has suggested such reviews as one approach to fulfilling this new legislation.

Cheers!

Michael...

...L. Dourson, Ph.D., DABT, FATS, FSRA

Professor

Risk Science Center (formerly TERA)

Department of Environmental Health
University of Cincinnati, College of Medicine
160 Panzeca Way
Cincinnati OH 45267-0056

michael.dourson@uc.edu
513-558-7949
419-892-2502 (Mondays)

<http://eh.uc.edu/tera/>

<image001.jpg>

From: Margaret Whittaker <Mwhittaker@toxservices.com>

Date: Thursday, August 31, 2017 at 7:58 PM

To: Michael Dourson <doursoml@ucmail.uc.edu>

Cc: "Chen, Tracy" <Tracy.Chen@fda.hhs.gov>, "Jason E. Schaff"

Ex. 6 - Personal Privacy >, Jennifer Tanir <**Ex. 6 - Personal Privacy** >

Subject: Invitation to Speak at NCAC / American Chemical Society Chemical Society of Washington October 13th Symposium

Dear Mike,

Hello to you, and I hope you've been well, and I look forward to seeing you at the autumn NSF HAB meeting. The SOT National Capital Area Chapter (NCAC) and the American Chemical Society's Chemical Society of Washington Chapter **are jointly hosting a symposium on October 13th at ACS Headquarters in Washington, D.C.** The topic will be TSCA, and we would be grateful if you would speak at the symposium. I would very much like to balance out the points of view at the symposium, and I have always valued your insight.

We have attached a draft symposium agenda with proposed topics for invited speakers. Would you please inform us as to your availability to participate, and I'll coordinate the logistics. Thank you very much for your time and consideration.

Sincerely,

Meg Whittaker (NCAC Vice-President)

Jen Tanir (CSW Secretary)

Margaret H. Whittaker, Ph.D., M.P.H., CBiol., F.R.S.B., E.R.T., D.A.B.T.

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(202) 429-8788 (fax)
www.toxservices.com

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<NCAC CSW NCAC Symposium Agenda October 13 2017 Update 2.docx>

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<image001.jpg>

<image002.gif>

<NCAC CSW NCAC Symposium Agenda October 13 2017 Update 2.docx>

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Bowman, Liz
Sent: Fri 6/9/2017 8:37:00 PM
Subject: RE: Heads up

Thank you - I have a question for you...

If we do an event with a chemical company and/or ACC (an event for press coverage), am I allowed to participate in that event? We are working on scheduling the Administrator's summer schedule for press events, and I am not sure if I can go if there is something with ACC. I THINK I can, but I just would like some clarity. Thank you!

-----Original Message-----

From: Fugh, Justina
Sent: Friday, June 9, 2017 4:28 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Subject: RE: Heads up

Hi Liz,
Nancy Beck signed her recusal statement (see attached). One correction she made necessitated my updating her impartiality determination (she left ACC a week earlier than I realized). So here is the final recusal and the final (really) impartiality determination. I definitely won't be sending these out until next week.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

-----Original Message-----

From: Bowman, Liz
Sent: Thursday, June 08, 2017 7:08 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Heads up

Thank you for the heads up and the summary! Very helpful

Sent from my iPhone

> On Jun 8, 2017, at 6:22 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

>

> Hi Liz,

> Earlier today, Kevin Minoli signed an impartiality determination for Nancy Beck (see attached). I also sent her a draft recusal statement to sign. Once she does, I'll be able to respond to a bunch of FOIAs and a congressional or two. I will not be able to do any responses until next week at best, but thought I'd give you this heads up now! I have shared this document only with Nancy, Wendy Cleland-Hamnett (the acting AA), and one or two OGC managers, but it's a useful document, so people will surely share it.

>

> Here's a quick summary: With this writing, the Designated Agency Ethics Official confirms that Nancy Beck is permitted to participate in matters of general applicability, including rulemaking, even if her former employer, the American Chemistry Council, has an interest. In addition, he has determined that she may participate in specific comments that are offered by ACC in rulemaking and that she may attend certain meetings at which ACC is present (provided that the discussion is on a particular matter of general

applicability and other interested non-federal entities are present as well as other EPA officials). The determination covers the remainder of her one year cooling off period (until April 29, 2018), when it will no longer be necessary. After the cooling off period expires, she may participate freely with ACC.

>

> Cheers,

> Justina

>

> Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

>

>

>

> <Impartiality determination final.pdf>

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Cleland-Hamnett, Wendy[Cleland-Hamnett.Wendy@epa.gov]
From: Beck, Nancy
Sent: Fri 6/9/2017 7:18:57 PM
Subject: RE: signed impartiality determination and draft recusal statement
Recusal Statement Beck.pdf

You have a keen eye—thank you!

Please see revised. I also corrected a few other typos and noted that my recusal date ends April 21, 2018 (as April 21 was my last day at ACC, not Apr. 29).

Please let me know if you have other suggestions.

Thanks!
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Friday, June 9, 2017 2:17 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>
Subject: RE: signed impartiality determination and draft recusal statement

Hi Nancy,

Thanks for signing the document (and dating it, which some people forget to do!). You did not, however, include any of the cc's and there's an odd typo in the letterhead itself ("Washington" appears on the same line as the agency's title, separated from the rest of the address). Think about whether you want to redo the statement. Just so you know, both the impartiality determination and the recusal statement are subject to FOIA and will be released. There is no privilege or exception that applies to either document.

I have already advised Liz Bowman that the documents are signed, but I don't expect to get around to releasing them under FOIA until next week. So I have time if you want to make those small changes to your recusal statement. If not, what I have is fine.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Friday, June 09, 2017 10:16 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>
Subject: RE: signed impartiality determination and draft recusal statement

Justina,

Thank you very much for this. Attached is the signed recusal statement.
Is it correct to presume that these documents would be released in response to FOIA requests, or would these be held confidential?

Please let me know if you need anything else.

Thanks again!

Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina

Sent: Thursday, June 8, 2017 6:14 PM

To: Beck, Nancy <Beck.Nancy@epa.gov>

Cc: Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>

Subject: signed impartiality determination and draft recusal statement

Hi Nancy,

Attached please find the impartiality determination that Kevin Minoli signed earlier today. With this writing, the Designated Agency Ethics Official confirms that you are permitted to participate in matters of general applicability, including rulemaking, even if your former employer has an interest. In addition, he has determined that you may participate in specific comments that are offered by ACC in rulemaking and that you may attend certain meetings at which ACC is present (provided that the discussion is on a particular matter of general applicability and other interested non-federal entities are present as well as other EPA officials). The determination covers the remainder of your cooling off period (until April 29, 2018), when it will no longer be necessary. After your cooling off period expires, you may participate freely with ACC. If there is an ACC-related meeting that OCSPP believes you must attend between now and April 29, 2018,

then Wendy may ask OGC/Ethics to consider that.

I have drafted a recusal statement that you should review and, if no changes, print out on OCSPP letterhead and then date and sign. Please send a pdf of the statement back to me for my files.

I hope that you are getting acclimated to EPA and have a great weekend.

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Beck, Nancy
Sent: Thur 9/28/2017 9:15:41 PM
Subject: RE: TSCA Inventory Reset Rule - Request for Consent to Intervention

Thank you.

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Thursday, September 28, 2017 5:06 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: TSCA Inventory Reset Rule - Request for Consent to Intervention

Yes. We'll add it to our determination.

From: Beck, Nancy
Sent: Thursday, September 28, 2017 12:11 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Fwd: TSCA Inventory Reset Rule - Request for Consent to Intervention

One more rule where I have a conflict. Can OGC evaluate options?

Thanks.

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: (b) (6)
Beck.Nancy@epa.gov

Begin forwarded message:

From: "Mclean, Kevin" <Mclean.Kevin@epa.gov>
Date: September 28, 2017 at 12:04:16 PM EDT
To: "Baptist, Erik" <baptist.erik@epa.gov>, "Beck, Nancy" <Beck.Nancy@epa.gov>, "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Cc: "Grant, Brian" <Grant.Brian@epa.gov>, "Thaler, Elizabeth" <thaler.elizabeth@epa.gov>
Subject: FW: TSCA Inventory Reset Rule - Request for Consent to Intervention

API, ACC and others notified DOJ they intend to intervene in the TSCA inventory rule litigation.

From: Thaler, Elizabeth
Sent: Thursday, September 28, 2017 11:55 AM
To: Grant, Brian <Grant.Brian@epa.gov>; Mclean, Kevin <Mclean.Kevin@epa.gov>
Subject: FW: TSCA Inventory Reset Rule - Request for Consent to Intervention

ACC, API, & other industry grps just notified DOJ that they intend to move to intervene on behalf of gov't respondents in Inventory Rule litigation. See forwarded email below. They request our consent to intervene and currently plan to file their motion on Monday. Will touch base w/ Laurel today to

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Elizabeth Thaler

Attorney-Advisor

Pesticides and Toxic Substances Law Office

EPA Office of General Counsel

(202) 564-1608

From: Dupre, Phillip R (ENRD) [<mailto:Phillip.R.Dupre@usdoj.gov>]
Sent: Thursday, September 28, 2017 11:22 AM
To: Thaler, Elizabeth <thaler.elizabeth@epa.gov>
Subject: FW: TSCA Inventory Reset Rule - Request for Consent to Intervention

FYI.

From: Boxerman, Samuel B. [<mailto:sboxerman@sidley.com>]
Sent: Thursday, September 28, 2017 11:18 AM
To: Dupre, Phillip R (ENRD) <PDupre@ENRD.USDOJ.GOV>
Cc: Webster, Timothy K. <twebster@sidley.com>
Subject: TSCA Inventory Reset Rule - Request for Consent to Intervention

Mr. Dupre –

I write on behalf of the American Chemistry Council and several others that intend to move to intervene on behalf of the government respondents in the TSCA Inventory Reset Rule challenge pending in the DC Circuit.

We request your consent to our motion to intervene, which we plan to file on October 2, 2017.

Please let me know by noon on October 2, 2017 your position on our request (e.g., consent, take no position but does not intend to oppose, etc.) and if you want us to recite a specific statement of your position, the text of that statement.

Although there may be some slight adjustments, the expected movants are: American Chemistry Council, American Coatings Association, American Coke and Coal Chemicals Institute, American Fuel & Petrochemical Manufacturers, American Forest & Paper Association, American Petroleum Institute, Chamber of Commerce of the United States of America, EPS Industry Alliance, IPC International, Inc., doing business as IPC – Association Connecting Electronics Industries, National Association of Chemical Distributors, National Association of Manufacturers, National Mining Association, Polyurethane Manufacturers Association, and Society of Chemical Manufacturers and Affiliates.

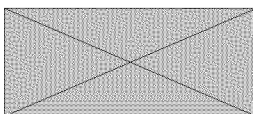
Please let me know if you have any questions.

Many thanks,

-- Sam

SAMUEL B. BOXERMAN

SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, DC 20005
+1 202 736 8547
sboxerman@sidley.com
www.sidley.com



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To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Wise, Louise[Wise.Louise@epa.gov]
From: Beck, Nancy
Sent: Fri 9/22/2017 9:46:49 PM
Subject: Re: confirmation

Got it. Thanks Justina for the update.

Can you get the case numbers from PTSLO or it that something I should track down (on Monday)?

Have a great weekend as well.

Nancy.

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: (b) (6)
Beck.Nancy@epa.gov

On Sep 22, 2017, at 5:44 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Nancy,

This quick note confirms that OGC is inclined to grant you an impartiality determination to allow you to participate in litigation even though your former employer, ACC, has filed a motion to intervene. We need the name of the case or cases, please, and remind you that until you receive the actual written determination, you should still be recused from participation. You may passively receive publicly available information, but please be mindful of the fact that you ought not actively seek that information.

Have a great weekend,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Cleland-Hamnett, Wendy[Cleland-Hamnett.Wendy@epa.gov]
From: Beck, Nancy
Sent: Fri 6/9/2017 2:15:39 PM
Subject: RE: signed impartiality determination and draft recusal statement
Recusal Statement Beck.pdf

Justina,

Thank you very much for this. Attached is the signed recusal statement.
Is it correct to presume that these documents would be released in response to FOIA requests, or would these be held confidential?

Please let me know if you need anything else.

Thanks again!

Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Thursday, June 8, 2017 6:14 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>
Subject: signed impartiality determination and draft recusal statement

Hi Nancy,

Attached please find the impartiality determination that Kevin Minoli signed earlier today. With this writing, the Designated Agency Ethics Official confirms that you are permitted to participate in matters of general applicability, including rulemaking, even if your former employer has an interest. In addition, he has determined that you may participate in specific comments that are offered by ACC in rulemaking and that you may attend certain meetings at which ACC is present (provided that the discussion is on a particular matter of general applicability and other interested non-federal entities are present as well as other EPA officials). The determination covers the remainder of your cooling off period (until April 29, 2018), when it will no longer be necessary. After your cooling off period expires, you may participate freely with ACC. If there is an ACC-related meeting that OCSPP believes you must attend between now and April 29, 2018, then Wendy may ask OGC/Ethics to consider that.

I have drafted a recusal statement that you should review and, if no changes, print out on OCSPP letterhead and then date and sign. Please send a pdf of the statement back to me for my files.

I hope that you are getting acclimated to EPA and have a great weekend.

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY WASHINGTON,
D.C. 20460

JUN 09 2017

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator

A handwritten signature in black ink, appearing to read "Nancy Beck".

TO: Wendy Cleland-Hamnett
Acting Assistant Administrator

Because I am in an Administratively Determined position, I have been advised by the Office of General Counsel/Ethics (OGC/Ethics) that I am not subject to Executive Order 13,770 and therefore not required to sign the Trump ethics pledge. But as an executive branch employee, I have always understood that I am subject to the conflict of interest statutes codified at Title 18 of the United States Code and the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635. Pursuant to the federal impartiality standards, I have understood that I have a "covered relationship" with my former employer, the American Chemistry Council (ACC), and have recused myself from participating personally and substantially in any particular matter involving specific parties in which ACC is a party or represents a party. I was advised by OGC/Ethics that my recusal period commenced the day that I left ACC and would remain in effect for one year unless I was authorized by the Office of General Counsel/Ethics (OGC/Ethics) to participate pursuant to 5 C.F.R. 2635.502(d).

I have sought and obtained confirmation from OGC/Ethics that I can participate in particular matters of general applicability, such as rulemaking, even if my former employer has an interest, and that I can participate personally and substantially in any discussions or consideration of comments that ACC submitted with regard to rulemaking or other matters of general applicability. See attached. I am also now authorized to attend meetings at which ACC is present or represented, provided that the subject matter of the meeting is a matter of general applicability, if other interested non-federal parties are present, and other EPA personnel attend. For the remainder of my cooling off period, until April 29, 2018, however, I understand that I cannot otherwise participate in any specific party matter involving ACC unless I first seek approval from OGC/Ethics.

I am issuing this recusal statement to ensure that our staff assist me by directing any ACC specific party matter to you instead of me, without my knowledge or involvement, until after April 29, 2018. In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests or in my personal or business relationships.

Internet Address (URL) • <http://www.v.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on 100% Postconsumer, Process Chlorine Free Recycled paper

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Bowman, Liz
Sent: Thur 6/8/2017 11:08:13 PM
Subject: Re: Heads up

Thank you for the heads up and the summary! Very helpful

Sent from my iPhone

> On Jun 8, 2017, at 6:22 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

>

> Hi Liz,

> Earlier today , Kevin Minoli signed an impartiality determination for Nancy Beck (see attached). I also sent her a draft recusal statement to sign. Once she does, I'll be able to respond to a bunch of FOIAs and a congressional or two. I will not be able to do any responses until next week at best, but thought I'd give you this heads up now! I have shared this document only with Nancy, Wendy Cleland-Hamnett (the acting AA), and one or two OGC managers, but it's a useful document, so people will surely share it.

>

> Here's a quick summary: With this writing, the Designated Agency Ethics Official confirms that Nancy Beck is permitted to participate in matters of general applicability, including rulemaking, even if her former employer, the American Chemistry Council, has an interest. In addition, he has determined that she may participate in specific comments that are offered by ACC in rulemaking and that she may attend certain meetings at which ACC is present (provided that the discussion is on a particular matter of general applicability and other interested non-federal entities are present as well as other EPA officials). The determination covers the remainder of her one year cooling off period (until April 29, 2018), when it will no longer be necessary. After the cooling off period expires, she may participate freely with ACC.

>

> Cheers,

> Justina

>

> Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

>

>

>

> <Impartiality determination final.pdf>

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Cleland-Hamnett, Wendy[Cleland-Hamnett.Wendy@epa.gov]
From: Beck, Nancy
Sent: Fri 6/23/2017 10:19:22 PM
Subject: meeting approval
2017 Tour Flyer.doc

Justina,

I realized I have a few speaking events on the calendar and wanted to make sure you were ok with them.

1) June 27, ELI is having an all day TSCA event at GWU. [Details are here](#). Wendy and Jeff from OCSPP will also be speaking.

I'm a speaker on a panel in the afternoon:

1:30 pm Guided Discussion: Science Policy Issues

- **Nancy B. Beck, Ph.D., D.A.B.T., Deputy Assistant Administrator, EPA Office of Chemical Safety and Pollution Prevention (*invited*)**
- **Richard A. Denison, Ph.D., Lead Senior Scientist, Environmental Defense Fund**
- **Bob Diderich, Head of Division, Environment, Health & Safety, Organisation for Economic Cooperation Development**
- **Lynn R. Goldman, M.D., M.S., M.P.H., Michael and Lori Milken Dean, Milken Institute School of Public Health; Professor of Environmental and Occupational Health**
- **Jacqueline Patterson, M.En., Senior Research Scientist, Risk Science Center (formerly TERA Center), University of Cincinnati**

2) July 11 at the Toxicology Forum meeting (in Annapolis, so no real travel):

I'm simply a discussant on a panel discussing systematic review. The [full meeting information is here](#), and the session details are below.

I will likely just go to the meeting for the day.

Tuesday, July 11

9:00 AM–11:00 AM SESSION: Systematic Review – (When) Is it Worth it? A Survey of the Systematic Review Landscape in Toxicology and a Discussion to Inform When and How Systematic Review Can Most Meaningfully Be Used As an Approach to Evaluate Toxicological and Risk Assessment Questions

Moderated by Daniele Wikoff

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Daniele Wikoff, ToxStrategies, Inc.

9:35 AM–10:00 AM Lessons From the Conduct of Systematic Reviews in Risk Assessment: The Utility of Multidisciplinary Teams, Thorough Problem Formulation, and Software Tools

Katya Tsaoun, Johns Hopkins School of Public Health

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Elisa Aiassa, European Food Safety Authority

10:25 AM–11:00 AM Moderated Panel Discussion

Panelists: Vincent Cogliano, Kris Thayer, Suzanne Fitzpatrick, and Nancy Beck, and Speakers

3) Finally not a speaking event, but I am hoping to go on a crop tour this summer. Many from the EPA pesticides program have participated in the past and have found it very useful. Also, its definitely something that is ok for the career folks and I heard Jim Jones also went and this may have been when he was a political. I've attached the flyer for the event. EPA would pay my expenses.

Please let me know if you have any concerns with these.

Thanks,
Nancy

Nancy B. Beck, Ph.D., DABT

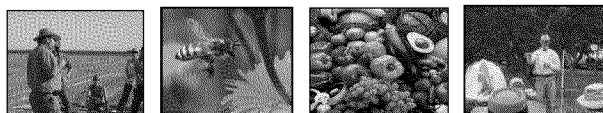
Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov



California Specialty Crops Tour: August 7-11, 2017

Purpose: To increase knowledge, dialogue and linkages with stakeholders in California agriculture

The 2017 California Specialty Crops Tour Will Address the Following Topics:

- **IPM** – On-farm visits with farmers, pest control advisors and research scientists
- **Invasive Pests** – Learn about ACP, impacts on trade, and critical importance of managing new pests
- **Worker Protection** - Observe workers and field practices
- **Sustainable Agriculture** - Water, air, soil, natural resources conservation, secondary standards
- **Volatile Organic Compounds and Air Quality** – Current issues and proposed regulations
- **Endangered Species Act** – Impacts and concerns
- **Application Technology and Drift Mitigation** - In field demonstrations
- **Post Harvest Pest Management** – Critical storage issues and techniques
- **Fumigant Issues, Methyl Bromide and Alternatives** – Field research and new fumigant technologies
- **Biopesticides and Biological Control** – New active ingredients
- **Food Safety** – Field to fork issues, food safety initiatives and commodity programs
- **International Trade Issues** – How field based decisions impact export opportunities (e.g. MRLs)
- **Honey Bees and Pollination** – Hive health, colony collapse disorder, pollination needs
- **Water Situation in California** - Acreage trends, impacts on environmental quality and communities
- **Cross Agency Networking, Regulatory Issues and Research Needs of Specialty Crops**

WHEN	Mon. 8/7	Tues. 8/8	Wed. 8/9	Thurs. 8/10	Fri. 8/11
WHAT	Travel Day with Orientation Dinner	Tour	Tour	Tour	Travel Day Return Home
WHERE	Arrive into Visalia/Fresno	Visalia	Visalia to Salinas	Salinas to Sacramento	Depart out of Sacramento
TOPICS (DRAFT)	TRAVEL <i>Plan on early PM arrival</i> <i>Tour Event begins with Reception and Orientation Dinner at 4:30 PM</i> <i>California/Local Ag Overview</i>	Stone fruit, raisin grapes, spray drift mitigation, quarantine pre-plant fumigation, pre-shipment fumigations (QPS), international trade, invasive spp., environmental stewardship, air quality <i>Dinner on own in Downtown Visalia</i>	Garlic, onions, carrots vegetables, leafy greens, Sensitive aquatic site treatments, worker issues, organic and sustainable production, food safety <i>Dinner and discussion</i>	Methyl bromide & MB alternatives, melons, area-wide IPM, honey bees and pollination, pheromones, post-harvest disease control, cherries, pears, water quality, vertebrate pests <i>Tour ends late afternoon.</i>	TRAVEL for out-of-state participants <i>Depart at any time</i>

Crops We Plan to See:

Pears, carrots, onions, garlic, prunes (dried plums), cherries, melons, leafy greens, and others!

Travel Plans: Plan to arrive into Fresno or Visalia by early afternoon on Monday, 8/7; the tour officially begins with a reception, orientation dinner, and overview of California/Local Agriculture on Monday evening. For those traveling out of Sacramento, the tour bus will depart from the Farm Bureau parking lot early in the afternoon of 8/7 (12:30 pm) and we will return late afternoon of 8/10. Parking at the Farm Bureau is provided free of charge. Flight departures out of Sacramento need to be after 7:00 PM on Thursday, 8/10 or anytime on Friday, 8/11.

Costs: Tour bus transportation, most meals, and all tour materials are provided. Costs for out-of-state participants are estimated to be ~ \$500 for 4 nights of lodging and 3-4 meals (participants provide air transportation to and from tour). Costs for in-state participants are estimated to be ~ \$350 for 3 nights of lodging and a few meals. Some in-state attendees may incur hotel expense for the night of August 10 depending on their origination location. Hotel reservation details will be provided separately for participants, but must be made by Sunday July 9. Please note that space is limited and we need confirmation of attendance by July 1.

Logistics and Routing Throughout the State: The 2017 tour will cover a wide cross section of geography and crops in three distinct growing regions of the state. The tour group will travel via bus on a route that originates in Visalia; we will have speakers on the bus to maximize the use of our travel time and opportunities for exchange. The tour will end in Sacramento.

Attendance and Exchange – Tour Participants: All participants are expected to attend all 3.5 days of this event and be prepared to give a short description of how their official duties fit into the practice of IPM, Worker Protection, Environmental Stewardship, Resource Conservation, International Trade, Food Safety and/or Ag Sustainability pertaining to specialty crops.

For Further Information: Please contact Gary W. Van Sickle (CSCC Executive Director) at gary@specialtycrops.org

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Beck, Nancy
Sent: Thur 9/28/2017 4:10:45 PM
Subject: Fwd: TSCA Inventory Reset Rule - Request for Consent to Intervention

One more rule where I have a conflict. Can OGC evaluate options?
Thanks.

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: (b) (6)
Beck.Nancy@epa.gov

Begin forwarded message:

From: "Mclean, Kevin" <Mclean.Kevin@epa.gov>
Date: September 28, 2017 at 12:04:16 PM EDT
To: "Baptist, Erik" <baptist.erik@epa.gov>, "Beck, Nancy" <Beck.Nancy@epa.gov>, "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Cc: "Grant, Brian" <Grant.Brian@epa.gov>, "Thaler, Elizabeth" <thaler.elizabeth@epa.gov>
Subject: FW: TSCA Inventory Reset Rule - Request for Consent to Intervention

API, ACC and others notified DOJ they intend to intervene in the TSCA inventory rule litigation.

From: Thaler, Elizabeth
Sent: Thursday, September 28, 2017 11:55 AM
To: Grant, Brian <Grant.Brian@epa.gov>; Mclean, Kevin <Mclean.Kevin@epa.gov>
Subject: FW: TSCA Inventory Reset Rule - Request for Consent to Intervention

ACC, API, & other industry grps just notified DOJ that they intend to move to intervene on behalf of gov't respondents in Inventory Rule litigation. See forwarded email below. They request our consent to intervene and currently plan to file their motion on Monday. Will touch base w/ Laurel today to

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Elizabeth Thaler

Attorney-Advisor

Pesticides and Toxic Substances Law Office

EPA Office of General Counsel

(202) 564-1608

From: Dupre, Phillip R (ENRD) [<mailto:Phillip.R.Dupre@usdoj.gov>]
Sent: Thursday, September 28, 2017 11:22 AM
To: Thaler, Elizabeth <thaler.elizabeth@epa.gov>
Subject: FW: TSCA Inventory Reset Rule - Request for Consent to Intervention

FYI.

From: Boxerman, Samuel B. [<mailto:sboxerman@sidley.com>]
Sent: Thursday, September 28, 2017 11:18 AM
To: Dupre, Phillip R (ENRD) <PDupre@ENRD.USDOJ.GOV>
Cc: Webster, Timothy K. <twebster@sidley.com>
Subject: TSCA Inventory Reset Rule - Request for Consent to Intervention

Mr. Dupre –

I write on behalf of the American Chemistry Council and several others that intend to move to intervene on behalf of the government respondents in the TSCA Inventory Reset Rule challenge pending in the DC Circuit.

We request your consent to our motion to intervene, which we plan to file on October 2, 2017.

Please let me know by noon on October 2, 2017 your position on our request (e.g., consent, take no position but does not intend to oppose, etc.) and if you want us to recite a specific statement of your position, the text of that statement.

Although there may be some slight adjustments, the expected movants are: American Chemistry Council, American Coatings Association, American Coke and Coal Chemicals Institute, American Fuel & Petrochemical Manufacturers, American Forest & Paper Association, American Petroleum Institute, Chamber of Commerce of the United States of America, EPS Industry Alliance, IPC International, Inc., doing business as IPC – Association Connecting Electronics Industries, National Association of Chemical Distributors, National Association of Manufacturers, National Mining Association, Polyurethane Manufacturers Association, and Society of Chemical Manufacturers and Affiliates.

Please let me know if you have any questions.

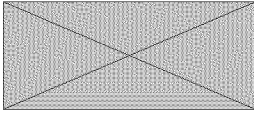
Many thanks,

-- Sam

SAMUEL B. BOXERMAN

SIDLEY AUSTIN LLP

1501 K Street, N.W.
Washington, DC 20005
+1 202 736 8547
sboxerman@sidley.com
www.sidley.com



This e-mail is sent by a law firm and may contain information that is privileged or confidential.

If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately.

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Beck, Nancy
Sent: Tue 8/1/2017 11:23:40 AM
Subject: FW: Gentle reminder from OGC/Ethics: Any transactions to report?

Justina,

Twice a month, I [Ex. 6 - Personal Privacy]
[Ex. 6 - Personal Privacy]
[Ex. 5 - Deliberative Process] Do I need to report this.

Also, are you here this Friday?

Thanks!

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: DCOGCLN1/DC/USEPA/US [mailto:DCOGCLN1/DC/USEPA/US@epamail.epa.gov]
Sent: Tuesday, August 1, 2017 3:00 AM
To: Nancy Beck <Beck.Nancy@epamail.epa.gov>
Subject: Gentle reminder from OGC/Ethics: Any transactions to report?

---- This is your gentle reminder from OGC/Ethics: Do you have a periodic transaction to report?? ----

Dear 278 Filer –

Because you file the OGE 278e, you are also required to file periodic transaction reports using the OGE 278T using INTEGRITY, the new online financial disclosure system created and maintained by the Office of Government Ethics (<https://www.integrity.gov>). You must file a periodic transaction report when you purchase, sell, or exchange certain investments like stocks, bonds, commodities futures, options or other

forms of securities if the amount of the transaction exceeds \$1,000. These transactions are reportable even if they occur within brokerage accounts, managed accounts, or other investment vehicles that you own or that are owned by anyone else whose interests are imputed to you (i.e., spouse and/or dependent children).

Please note that not all transactions are reportable on this periodic basis. Don't report transactions of less than \$1000 at a time. And you don't have to file a 278T for transactions involving investments such as mutual funds, exchange traded funds, real estate, or U.S. Treasury notes.

If you have a reportable periodic transaction, then you must file the OGE 278T in INTEGRITY within 30 days of receiving notification of the transaction, but not later than 45 days after the transaction occurs. You can be fined \$200 for any missed periodic report. If you don't have any reportable transactions, then don't submit a negative report. Keep track of your transactions because even if they aren't reportable periodically, they may still be reportable Schedule B of your next annual filing. Also, the INTEGRITY system will allow you to upload your transactions automatically into the appropriate annual report.

For more assistance on INTEGRITY, check out the OGC/Ethics help page at:
<http://intranet.epa.gov/ogc/Integrity/Landingpage.html>

Thanks!

The OGC/Ethics team

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Cleland-Hamnett, Wendy[Cleland-Hamnett.Wendy@epa.gov]
From: Beck, Nancy
Sent: Fri 6/23/2017 11:20:49 PM
Subject: Re: meeting approval

Thanks Justina!
Perhaps I will see if we can get a free ride for the crop tour!
Have a great weekend.
Nancy.

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: (b) (6)
Beck.Nancy@epa.gov

On Jun 23, 2017, at 7:18 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Nancy,

Thanks for the email! I don't have any ethics issues to raise with any of the events you listed, including the crop tour. Just remember that EPA has in the past been offered free travel for crop tours, and OGC is able to accept that. But in this case, it looks like EPA will be paying.

Best,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy

Sent: Friday, June 23, 2017 6:19 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>
Subject: meeting approval

Justina,

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1) June 27, ELI is having an all day TSCA event at GWU. [Details are here](#). Wendy and Jeff from OCSPP will also be speaking.

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1:30 pm Guided Discussion: Science Policy Issues

- **Nancy B. Beck, Ph.D., D.A.B.T., Deputy Assistant Administrator, EPA Office of Chemical Safety and Pollution Prevention (*invited*)**
- **Richard A. Denison, Ph.D., Lead Senior Scientist, Environmental Defense Fund**
- **Bob Diderich, Head of Division, Environment, Health & Safety, Organisation for Economic Cooperation Development**
- **Lynn R. Goldman, M.D., M.S., M.P.H., Michael and Lori Milken Dean, Milken Institute School of Public Health; Professor of Environmental and Occupational Health**
- **Jacqueline Patterson, M.En., Senior Research Scientist, Risk Science Center (formerly TERA Center), University of Cincinnati**

2) July 11 at the Toxicology Forum meeting (in Annapolis, so no real travel):

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Katya Tsaioun, Johns Hopkins School of Public Health

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Elisa Aiassa, European Food Safety Authority

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3) Finally not a speaking event, but I am hoping to go on a crop tour this summer. Many from the EPA pesticides program have participated in the past and have found it very useful. Also, it's definitely something that is ok for the career folks and I heard Jim Jones also went and this may have been when he was a political. I've attached the flyer for the event. EPA would pay my expenses.

Please let me know if you have any concerns with these.

Thanks,
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Beck, Nancy
Sent: Wed 5/24/2017 10:48:47 PM
Subject: RE: ethics question

And thank you, as always!!

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Wednesday, May 24, 2017 6:48 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Subject: RE: ethics question

I vote no.

The ethics regulations at 5 CFR 2635.702(b) allow the use of letterhead for recommendations in only two situations: (1) you can refer to EPA position/title if you know the person through your federal work, or (2) you are recommending the person to a federal position. So if the person is someone you know from your OMB days, or the person is applying for a position at another federal agency, then you can refer to your EPA position and title. Please note, however, that EPA frowns on use of official letterhead (and official signature block) even if you otherwise meet the exceptions for misuse of position that I just described. See <http://intranet.epa.gov/ogc/ethics/07-02.pdf>.

What I advise is this: if you don't otherwise meet the exceptions, then use personal letterhead

(your home address) or no letterhead at all. You could say that you now work at a federal agency, I guess, but not say which one. On the other hand, if you know the person from OMB or the person is applying for another fed position, then you can technically use EPA letterhead (despite our grumbling) but be sure to say that you are expressing your personal opinion (as opposed to the Agency's).

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Wednesday, May 24, 2017 6:20 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: ethics question

Justina,

I cant find it in the document you gave me, but what are the rules about writing a recommendation for someone (non-EPA) who is looking for a job (non-EPA) but likely wants me to write the recommendation on EPA stationery and/or using my title position? I recall we discussed it but want to make sure I get it right.

Thanks!

Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Beck, Nancy
Sent: Wed 5/24/2017 10:48:40 PM
Subject: RE: ethics question

Thanks—that was my recollection.

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Wednesday, May 24, 2017 6:48 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Subject: RE: ethics question

I vote no.

The ethics regulations at 5 CFR 2635.702(b) allow the use of letterhead for recommendations in only two situations: (1) you can refer to EPA position/title if you know the person through your federal work, or (2) you are recommending the person to a federal position. So if the person is someone you know from your OMB days, or the person is applying for a position at another federal agency, then you can refer to your EPA position and title. Please note, however, that EPA frowns on use of official letterhead (and official signature block) even if you otherwise meet the exceptions for misuse of position that I just described. See <http://intranet.epa.gov/ogc/ethics/07-02.pdf>.

What I advise is this: if you don't otherwise meet the exceptions, then use personal letterhead

(your home address) or no letterhead at all. You could say that you now work at a federal agency, I guess, but not say which one. On the other hand, if you know the person from OMB or the person is applying for another fed position, then you can technically use EPA letterhead (despite our grumbling) but be sure to say that you are expressing your personal opinion (as opposed to the Agency's).

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Wednesday, May 24, 2017 6:20 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: ethics question

Justina,

I cant find it in the document you gave me, but what are the rules about writing a recommendation for someone (non-EPA) who is looking for a job (non-EPA) but likely wants me to write the recommendation on EPA stationery and/or using my title position? I recall we discussed it but want to make sure I get it right.

Thanks!

Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Clark, Sharon[Clark.Sharon@epa.gov]
From: Beck, Nancy
Sent: Fri 9/22/2017 2:56:47 PM
Subject: RE: Status of Your Ethics Travel Form Approval Request

Thanks!

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Justina Fugh [mailto:Fugh.Justina@epamail.epa.gov]
Sent: Friday, September 22, 2017 10:56 AM
To: Nancy Beck <Beck.Nancy@epamail.epa.gov>
Cc: Clark, Sharon <Clark.Sharon@epa.gov>
Subject: Status of Your Ethics Travel Form Approval Request

Justina Fugh, the authorized approving official, has approved your form 2610-3 (Approval to Accept Travel under Ethics Reform Act of 1989).

Please click the link below to view or print your approved form. The print button is in the grey area at the top of the form.

This e-mail notification points to a link that contains your approved form. The notification itself is not evidence of OGC's approval. You must use the actual approved form where evidence of approval is needed.

Submitted forms are locked - you cannot make any changes to your form once submitted. If BEFORE your travel begins you find that your travel plans no longer match your submission, please contact the OGC Ethics Official and request to have your submission disapproved. This disapproval will unlock your form and allow you to edit and resubmit it for review. Please do not submit a duplicate corrected form as this will delay or stop the processing of your request.

If AFTER you finish your travel you find that your actual travel did not match your approved submission, please return to the form and click the Create Post-Travel Amendment button. An amendment section will appear pre-filled with existing information -- simply adjust this information as needed and submit.

Only the actual traveler can prepare and submit an amendment.



To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Beck, Nancy
Sent: Wed 6/28/2017 5:24:46 PM
Subject: RE: your financial disclosure report

Thank you!

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Wednesday, June 28, 2017 1:19 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Subject: RE: your financial disclosure report

Sure. Here you go.

From: Beck, Nancy
Sent: Wednesday, June 28, 2017 1:13 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Bowman, Liz <Bowman.Liz@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>
Subject: RE: your financial disclosure report

Justina is it possible to get an advance copy of exactly what they will see (what the report looks like)? They wont have the max interface so what will this look like?

Thanks!
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina

Sent: Wednesday, June 28, 2017 10:16 AM

To: Beck, Nancy <Beck.Nancy@epa.gov>

Cc: Bowman, Liz <Bowman.Liz@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>;

Richardson, RobinH <Richardson.RobinH@epa.gov>

Subject: your financial disclosure report

Hi there,

You may recall that I had mentioned to you that, as a public filer, your financial disclosure report can be made available to the public upon request. Well, I'm writing to confirm that your report has been requested and will be released tomorrow.

OGC/Ethics typically waits to fill those requests until after we have received and certified

the report, and I will finally get around to releasing a batch of reports tomorrow. Here are the people who will receive your report:

Nick Surgey, Center for Media and Democracy

Joe Gaeta, Senator Sheldon Whitehouse

Because the release will go to both a press person and a congressional staffer, I'm alerting OPA and OCIR (but they won't actually see your form).

Best,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Beck, Nancy
Sent: Wed 5/24/2017 10:20:22 PM
Subject: ethics question

Justina,

I cant find it in the document you gave me, but what are the rules about writing a recommendation for someone (non-EPA) who is looking for a job (non-EPA) but likely wants me to write the recommendation on EPA stationary and/or using my title position? I recall we discussed it but want to make sure I get it right.

Thanks!

Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Nancy Beck[Beck.Nancy@epamail.epa.gov]
Cc: Fugh, Justina[Fugh.Justina@epa.gov]; Wise, Louise[Wise.Louise@epa.gov]
From: Justina Fugh
Sent: Fri 9/22/2017 2:29:40 PM
Subject: Status of Your Ethics Travel Form Approval Request (Disapproved by DEO)

Justina Fugh, the Deputy Ethics Official (DEO) / Alternate DEO you selected, has disapproved your form 2610-3 (Approval to Accept Travel under Ethics Reform Act of 1990). If the form can be corrected by editing it, you will need to recertify the edited form by clicking the Yes button at the bottom of the form when you are finished.

for changes

Regards,
Justina Fugh
202-564-1786



To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Beck, Nancy
Sent: Mon 7/17/2017 4:28:20 PM
Subject: Fwd: Non Profit activities

Justina,
Any thought on this?
Thanks.
Nancy.

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: (b) (6)
Beck.Nancy@epa.gov

Begin forwarded message:

From: "Beck, Nancy" <Beck.Nancy@epa.gov>
Date: July 7, 2017 at 6:55:03 PM EDT
To: "Fugh, Justina" <Fugh.Justina@epa.gov>
Subject: Non Profit activities

Justina,

I wanted to check with you regarding my participation with two non-profits. Both are toxicology related and relevant for the work I'm doing at EPA.

1) I am on the board of trustees of the Evidence Based Toxicology Collaboration. <http://www.cbtox.org/about-us/>. EBTC was formally founded in 2011 at Johns Hopkins Bloomberg School of Public Health with the vision to improve the public health outcomes and reduce human impact on the environment by bringing evidence-based approaches to safety sciences. Our mission: Bring together the international toxicology community to facilitate use of evidence-based toxicology to inform regulatory, environmental and public health decisions.

a. Is it ok for me to continue to participate on this board? The work they do is very relevant to the work we are doing in OCSPP. There is someone from NIEHS on the board and I believe he participates fully (but perhaps does not formally vote or comment on budget). My participation could be done from my personal computer on my personal time if that makes it easier.

2) I am a trustee of the Toxicology Education Foundation:
<http://toxedfoundation.org/about/#mission>. The Toxicology Education Foundation (TEF) is a non-profit charitable 501 (c)(3) foundation whose mission is to enhance public understanding of toxicology through access to objective, science-based information on the safety of chemicals and other agents encountered in daily life.

a. I am also chair of the marketing subcommittee—which I’m planning to step down from as I simply don’t have time but would like to stay on as a trustee if I can. Currently someone from NIH participates as a Government Liaison, rather than as an official trustee. Is this a role I could switch to?

Please let me know what other information you may need.

Thanks,
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Bowman, Liz[Bowman.Liz@epa.gov]; Fugh, Justina[Fugh.Justina@epa.gov]; Beck, Nancy[Beck.Nancy@epa.gov]
Cc: Bahadori, Tina[Bahadori.Tina@epa.gov]; Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Corona, Elizabeth
Sent: Mon 9/11/2017 11:54:28 AM
Subject: RE: Chemical Sectors

Thanks for the clarification, Justina.

Given the sensitivity, our team will stick strictly to discussing agency work related to chemicals. We will not discuss ACC.

I'll connect with Justina and Shannon first before we find a time for us to meet with Nancy and/or Liz.

--

Elizabeth Corona, PhD, MBA

Office of Policy | Immediate Office

U.S. Environmental Protection Agency

(Desk) 202-564-8356

From: Bowman, Liz
Sent: Friday, September 08, 2017 7:41 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Bahadori, Tina <Bahadori.Tina@epa.gov>; Corona, Elizabeth <Corona.Elizabeth@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Chemical Sectors

Thanks, Justina. Does this mean that Nancy and I get gold ethics stars for the day ☺? And/or at least a piece of delicious chocolate?

From: Fugh, Justina
Sent: Friday, September 8, 2017 6:38 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Bahadori, Tina <Bahadori.Tina@epa.gov>; Corona, Elizabeth <Corona.Elizabeth@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Chemical Sectors

Hi Nancy and Liz,

I am so happy with both of you that you have correctly identified that the presence of your former employer, ACC, causes you ethics concerns. You are correct in that neither of you can meet with EPA staff to discuss ACC and its interest in or any participation with the agency's sectors concept. The fact that agency officials met with just ACC means that this proposed discussion falls within the scope of your recusals.

It may be possible for Agency officials to talk with you generally about the sectors team and their strategies for engaging outside entities, including but not limited to ACC. However, OGC/Ethics advises that those officials first consult with us to explain the parameters of your recusal. Shannon Griffo, copied here, is the contact person for recusals here in OGC/Ethics.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Thursday, September 07, 2017 4:15 PM
To: Corona, Elizabeth <Corona.Elizabeth@epa.gov>; Bahadori, Tina <Bahadori.Tina@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Chemical Sectors

Elizabeth,

I cant speak for others, but because I came from ACC, I would want to check with OGE to ensure these interactions are appropriate. As such, I've looped in Justina Fugh.

Once I have her ok, I'd be happy to engage with you to talk about the work we are doing in OCSPP and how this may be of interest to the chemicals sectors team.

Thanks Justina!

Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Corona, Elizabeth

Sent: Thursday, September 7, 2017 3:25 PM

To: Bahadori, Tina <Bahadori.Tina@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>;
Bowman, Liz <Bowman.Liz@epa.gov>

Subject: FW: Announcement

Hi again, Nancy, Liz, and Tina.

I wanted to follow up my previous email to let you know that the Sectors Team is officially off the ground and running! See below – Sectors Team paragraph. I am officially the chemical

manufacturing contact for our team.

We had a great meeting yesterday with ACC to introduce them to the sectors concept. Our conversations focused largely on permit streamlining and regulatory reform. We didn't really touch on science during the meeting, although I'm sure it will come up in future meetings.

ACC spoke very highly of the chemical sector lead from the previous iteration of the Sector Strategies program. They also indicated that, for the most part, they have good working relationships within EPA.

I'd love to connect with you and your folks at some point in the near future to share more about what's happening with the sectors team and make sure we're taking a coordinated approach to engaging with outside folks. We're still in the very early stages of setting things up. We'd love to get your input early on so we can incorporate it into our plans before we get too far along.

I'm free Monday, Tuesday, and Wednesday next week between 1-3pm each day. Please let me know if you have a half hour during one of those slots for us to connect in person.

Elizabeth

--

Elizabeth Corona, PhD, MBA

Office of Policy | Immediate Office

U.S. Environmental Protection Agency

(Desk) 202-564-8356

From: Kime, Robin **On Behalf Of** Dravis, Samantha

Sent: Wednesday, September 06, 2017 8:17 PM
To: OP-Everyone <OPEveryone@epa.gov>
Subject: Announcement

Dear Colleagues,

For the past several months I've had the pleasure of learning about the many ways the Office of Policy (OP) contributes to the mission of the Environmental Protection Agency. The analysis and support we provide for the agency's most critical functions is of the utmost importance to me. As a cross-media and cross-agency office, I believe that the following changes to OP's organization will enhance our ability to advance Administrator Pruitt's priorities in line with EPA's mission to protect human health and the environment.

Office of Environmental Justice (OEJ): In order to better serve overburdened communities, OEJ will join the Office of Policy. OEJ will work in partnership with the Office of Sustainable Communities, which will be renamed the Office of Community Revitalization. It is important to both Administrator Pruitt and myself that the most underserved and overburdened communities have a meaningful say in environmental protection and regulation. EPA has, and will continue to consider and incorporate environmental justice concerns into our regulatory process and this move enhances our ability to achieve this core function. It will also enable EPA's EJ program to maximize its ability to support meaningful engagement and public participation across the agency and lead federal level coordination to consider overburdened community needs and the application of federal resources to meet those needs. Moving OEJ to OP allows OECA, where OEJ was previously located, to focus on its mission of enforcement and compliance assurance.

Office of Federal Activities (OFA): OFA will join the Office of Policy where it will continue to carry out its vital responsibilities under the National Environmental Policy Act (NEPA). Also within OFA will be a Permitting Policy Division to build on the successful streamlining efforts in the NEPA program. Together, these organizations will focus on two of the Administration's top priorities: expediting federal infrastructure projects and streamlining permitting processes. This move will reform the agency's permitting and NEPA roles that will streamline the entire environmental review process and reduce subjectivity, providing our stakeholders with more clarity and certainty on their projects; ensure staff are able to quickly elevate high visibility issues to the Administrator for resolution; coordinate with the permitting AAs which will allow the agency to drive solutions to expedite the entire environmental review process, as directed by the President under Executive Order 13766, under one central office; and continue the progress that has already been made to strengthen the NEPA program and our partnerships with our sister federal agencies. OFA staff who work on hazardous waste transport issues will move to the Office of Land and Emergency Management, where complementary work resides.

Sectors Team: I have established a Sectors Team within the Office of Policy's Immediate Office to work with staff across OP and the agency. The Sectors Team will develop strategies that better protect human health and the environment by engaging with partners at all levels to ensure the agency puts forth sensible regulations that encourage economic growth. This team will

coordinate with stakeholders to better understand their needs and challenges so as to improve environmental performance and inform smarter and more predictable rulemaking. This work will build upon our experience with the Sector Strategies Program as well as our ongoing work in regulatory and permitting reform.

Operations Office: Over the course of the last year, the Operations Team in the OP Immediate Office started efforts to streamline and improve our administrative and operational activities. To further these efforts, I have established an Operations Office, through which we will consolidate our operations and administrative support functions, leading to increased efficiency and enhanced processes.

Office of Strategic Environmental Management: To fully staff OP's priorities, including the new functions noted above, many OSEM staff will be reassigned to OFA, ORPM, NCEE, and other areas where additional staffing is critical to meeting OP's core mission and the Administration's goals. I appreciate the unique skills and leadership OSEM has brought to numerous cross-cutting EPA priorities over the years and believe that OP's new organizational structure will allow us to better harness their talents. The team will concentrate on streamlining the agency's operations, especially in programmatic areas such as permitting.

The new responsibilities outlined here are a testament to OP's valued expertise and its many past successes. I am excited about the new opportunities for OP, and how we can help the agency achieve its mission of protecting human health and the environment more efficiently and effectively for the American people.

Samantha

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Beck, Nancy
Sent: Fri 7/21/2017 9:14:25 PM
Subject: RE: Non Profit activities
[EBTCGovernanceOperatingGuidelinesFinal.pdf](#)
[ABT stationery2017.pdf](#)

Justina,

A few answers for you before we talk:

EBTC- March 17, 2015 was the date I agreed to serve on the Board. I've also attached the operating guidelines. I'm told page 12 may be helpful, but I cant say I'm fully convinced.

TEF- I became a trustee on May 1 2014. New intel: For another non-profit, by everyone's name who works for government, they put an asterisk and then say "Serving in a personal capacity." We do still have their affiliation listed though. Attached is the ABT letterhead—if EBTC went to this approach for me (as well as NIEHS and FDA) would that solve the problem?

Clearly these folks want to work with us to get to yes, but if you still think its cleaner, I'm all for clean breaks.

Thanks!
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Thursday, July 20, 2017 11:01 AM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Subject: RE: Non Profit activities

Hi Nancy,

I was on vacation all last week and am now slogging through emails. My “office husband” is retiring next week, and his party is this week, so I’m completely overwhelmed. I am SO SORRY to be tardy in responding to your note as you are one of my new favorite clients!

1) I am on the board of trustees of the Evidence Based Toxicology Collaboration. <http://www.ebttox.org/about-us/>. EBTC was formally founded in 2011 at Johns Hopkins Bloomberg School of Public Health with the vision to improve the public health outcomes and reduce human impact on the environment by bringing evidence-based approaches to safety sciences. Our mission: Bring together the international toxicology community to facilitate use of evidence-based toxicology to inform regulatory, environmental and public health decisions.

a. Is it ok for me to continue to participate on this board? The work they do is very relevant to the work we are doing in OCSPP. There is someone from NIEHS on the board and I believe he participates fully (but perhaps does not formally vote or comment on budget). My participation could be done from my personal computer on my personal time if that makes it easier.

JUSTINA: Oh dear, you did not report that position on your 278! It’s reportable as a “position held outside of government.” I will have to amend your report and adjust your recusal statement. When did that position start (month and year)? With regard to your ethics obligations, EPA cannot allow any employee to serve in official capacity in a fiduciary position with any outside organization. We lack the statutory authority to do so. I will have to check with NIEHS about Dr. Andrew Rooney and whether he serves in his official capacity or not. If he doesn’t, then you may continue to serve in your personal capacity, but you will have a financial conflict of interest with Johns Hopkins (because, under the financial conflict of interest statute, the interests of any organization that you serve in a fiduciary role are imputed to you). That’s why I will have to adjust your recusal statement too. You may add your EPA position to your bio, but you cannot represent EPA and you can’t allow your EPA position to have any undue influence (meaning that it can’t be the only thing you list).

2) I am a trustee of the Toxicology Education Foundation:

<http://toxedfoundation.org/about/#mission>. The Toxicology Education Foundation (TEF) is a non-profit charitable 501 (c)(3) foundation whose mission is to enhance public understanding of toxicology through access to objective, science-based information on the safety of chemicals and other agents encountered in daily life.

a. I am also chair of the marketing subcommittee—which I’m planning to step down from as I simply don’t have time but would like to stay on as a trustee if I can. Currently someone from NIH participates as a Government Liaison, rather than as an official trustee. Is this a role I could switch to?

JUSTINA: Again, this role was not reported on your 278 and is not addressed in your recusal statement. As explained above, EPA cannot allow you to serve in your official capacity. I see from the website that Suzanne Fitzpatrick is listed as representing FDA and Philip Wexler is the government liaison. I infer that they are both serving in their official capacities (unlike EPA, NIH and FDA have statutory authority to allow employees to serve on outside boards in their official capacity). This means that you as a federal employee are barred by 18 USC 205 from representing the TEF back to those federal officials. If you want to serve in a fiduciary role in your personal capacity when there are federal employees serving in their official capacity, then you will be in violation of 18 USC 205. This result is desperately unfair and, I believe, an unexpected consequence of the representational conflict of interest statute. I have raised this issue with the Office of Government Ethics and with other federal officials, and we’re completely gobsmacked about what to do about solving the problem. There is no waiver provision under the representational conflicts statutes.

I need to at least add this position to your 278 and your recusal statement, so tell me when you started (month and year). Then you need to think about whether you really want to continue to serve as a trustee. You can do so only in your personal capacity, but be mindful of the fact that, if you continue, you will technically be representing the interests of another (the board) back to the United States (the feds who serve in their official capacity). Quite frankly, many people (including ethics officials) simply ignore this problem.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Monday, July 17, 2017 12:28 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Fwd: Non Profit activities

Justina,

Any thought on this?

Thanks.

Nancy.

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: [202-564-1273](tel:202-564-1273)
M: (b) (6)
Beck.Nancy@epa.gov

Begin forwarded message:

From: "Beck, Nancy" <Beck.Nancy@epa.gov>
Date: July 7, 2017 at 6:55:03 PM EDT
To: "Fugh, Justina" <Fugh.Justina@epa.gov>
Subject: Non Profit activities

Justina,

I wanted to check with you regarding my participation with two non-profits. Both are

toxicology related and relevant for the work I'm doing at EPA.

1) I am on the board of trustees of the Evidence Based Toxicology Collaboration. <http://www.ebtox.org/about-us/>. EBTC was formally founded in 2011 at Johns Hopkins Bloomberg School of Public Health with the vision to improve the public health outcomes and reduce human impact on the environment by bringing evidence-based approaches to safety sciences. Our mission: Bring together the international toxicology community to facilitate use of evidence-based toxicology to inform regulatory, environmental and public health decisions.

a. Is it ok for me to continue to participate on this board? The work they do is very relevant to the work we are doing in OCSPP. There is someone from NIEHS on the board and I believe he participates fully (but perhaps does not formally vote or comment on budget). My participation could be done from my personal computer on my personal time if that makes it easier.

2) I am a trustee of the Toxicology Education Foundation: <http://toxedfoundation.org/about/#mission>. The Toxicology Education Foundation (TEF) is a non-profit charitable 501 (c)(3) foundation whose mission is to enhance public understanding of toxicology through access to objective, science-based information on the safety of chemicals and other agents encountered in daily life.

a. I am also chair of the marketing subcommittee—which I'm planning to step down from as I simply don't have time but would like to stay on as a trustee if I can. Currently someone from NIH participates as a Government Liaison, rather than as an official trustee. Is this a role I could switch to?

Please let me know what other information you may need.

Thanks,
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Beck, Nancy
Sent: Tue 5/30/2017 11:00:49 PM
Subject: Re: Ethics question

Thank you!!

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: (b) (6)
Beck.Nancy@epa.gov

On May 30, 2017, at 6:59 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Correct, because the participant indicates he will be representing ACC. Btw, Kevin will be back Thursday to look at your impartiality determination!
Justina

Sent from my iPhone

On May 30, 2017, at 6:15 PM, Beck, Nancy <Beck.Nancy@epa.gov> wrote:

Justina,

I've been invited to a meeting tomorrow where the invite says this:

Outside Participants: David Vitter and Stephen Aaron of Mercury Public Affairs representing the American Chemistry Council (ACC);

If someone is coming in on behalf of ACC, I should still be recused, correct? Even if they are not ACC themselves. Is this correct?

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Fugh, Justina[Fugh.Justina@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]
From: Minoli, Kevin
Sent: Mon 10/2/2017 6:07:47 PM
Subject: RE: Question for you

Just to close out the email record here, I conveyed this advice to Nancy a few minutes ago.
Thanks, Kevin

Kevin S. Minoli

Acting General Counsel

Office of General Counsel

US Environmental Protection Agency

Main Office Line: 202-564-8040

From: Fugh, Justina
Sent: Sunday, October 01, 2017 9:13 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: RE: Question for you

David and Kevin,

I don't have any federal ethics issues to raise for either Bob Sussman or Nancy to raise, except to remind Nancy (as she already knows) not to share information that is not public.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fotouhi, David
Sent: Friday, September 29, 2017 10:45 AM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: RE: Question for you

Hi, Nancy. Thanks for reaching out. Let me discuss this with Justina and Kevin (whom I've added to this chain) and get back to you as soon as possible.

Best,

David

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Beck, Nancy
Sent: Friday, September 29, 2017 10:37 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Question for you

David,

I'm supposed to give a talk next Friday at the National Academies board meeting about our TSCA implementation. This is a closed door meeting however one of the board members is Bob Sussman, who is lead counsel for SCHF which is suing us on the TSCA rules. I'm wondering what this means for my ability to give a general talk about the rules and our TSCA implementation. Similarly, in 2 weeks I am supposed to give a similar update to the local Society of Toxicology chapter on TSCA, where participants/attendees may likely include some from the groups that are suing us. If it wasn't me giving these talks, it would be Jeff Morris or someone from his shop.

Are there constraints on what we (OCSPP) can/cannot talk about publicly for the next 6 months or so while these rules are being litigated? I cant imagine a scenario where we are silenced in talking about our implementation publicly but if there are certain areas we need to stay away from please let me know. I am still recused from working on the litigation but I'm not sure that impacts my ability, or OPPTs ability to talk generally about our TSCA implementation.

If you want to talk about this, I can be reached on my cell all day (number below).

Thanks.

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Beck, Nancy
Sent: Tue 5/30/2017 10:15:07 PM
Subject: Ethics question

Justina,

I've been invited to a meeting tomorrow where the invite says this:

Outside Participants: David Vitter and Stephen Aaron of Mercury Public Affairs representing the American Chemistry Council (ACC);

If someone is coming in on behalf of ACC, I should still be recused, correct? Even if they are not ACC themselves. Is this correct?

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Beck, Nancy
Sent: Fri 9/8/2017 8:14:22 PM
Subject: RE: Conversation with DOJ -- ACC involvement

3156 in the East Building.

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Friday, September 8, 2017 3:07 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

We're all free from 2 to 2:30 on Thursday, 9/14. What's your room number, Nancy?

From: Beck, Nancy
Sent: Friday, September 08, 2017 2:00 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

Super. I love it when folks come this way!

A few window options:

1:45-2:30

3-4pm

Perhaps 30 minutes in one of those windows works for you both?

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina

Sent: Friday, September 8, 2017 1:24 PM

To: Beck, Nancy <Beck.Nancy@epa.gov>

Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>

Subject: RE: Conversation with DOJ -- ACC involvement

Hi Nancy,

Any excuse for chatting with you sounds like a pleasure! Early next week is not great for me. How about sometime on Thursday? We will invite Shannon Griffo, who is Team Ethics' recusal maven, and we can come over to your office.

Enjoy the weather!

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Friday, September 08, 2017 1:10 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

Thanks Justina,

I support your strict rule about driving, so no worries here.

By this note, I would like to request OGC/Ethics consider issuing an impartiality determination. I recognize that we can't predict the outcome of this and now that we know ACC has intervened, I will consider myself recused from participating in this current litigation. Please keep me posted on the outcome the evaluation.

I should probably sit down with you to better understand what exactly this recusal means and get some examples of what I can and cannot do. Please let me know when you have time.

Many thanks,
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Friday, September 8, 2017 12:21 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

Hi Nancy,

I was out of the office this morning to **Ex. 6 - Personal Privacy** and have a strict rule that I don't read emails or text while driving! Consequently, I didn't see your message until I got into the office. I did talk to Brian Grant, who explained that ACC, the entity with whom you have a covered relationship pursuant 5 CFR 2635.502(b)(iv), has filed a motion to intervene in a lawsuit. Although the court has not yet ruled on that motion, we are now on notice about ACC's intention. For ethics purposes, the lawsuit is a specific party matter and your recusal indicates that you will not participate in any such matter in which ACC is a party or represents a party unless you first seek approval from OGC/Ethics. The terms of your 6/9/17 recusal and the 6/8/17 impartiality determination do not extend to your participation in this lawsuit now that we know ACC plans to participate as a specific party. You are not permitted to participate in this litigation going forward, and cannot participate in the phone call later today.

You may ask OGC/Ethics to consider issuing an impartiality determination. We will consider your request and apply the regulatory factors set forth at 5 CFR 2635.502(d): (1) the nature of the relationship involved; (2) the effect that resolution of the matter would have upon the financial interests of the person involved in the

relationship; (3) the nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in

the matter; (4) the sensitivity of the matter; (5) The difficulty of reassigning the matter to another employee; and (6) adjustments that may be made in

the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

To be clear, until such time as OGC/Ethics issues you any impartiality determination – and I am not yet indicating that we would – you cannot participate in this litigation.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Friday, September 08, 2017 7:35 AM
To: Grant, Brian <Grant.Brian@epa.gov>
Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>;
Morris, Jeff <Morris.Jeff@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Fugh, Justina
<Fugh.Justina@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

Great—lets find a window. I think that after 11:30 I could generally make it work and move meetings around.

Regarding participation, I refer to OGE on that and am looping in Justina. ACC commented on the proposed rule and I was allowed to participate on the final rule so I'm not exactly sure how this is similar/different.

However, I would think that until they actually intervene, there should be no concern.

Thanks.

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Grant, Brian
Sent: Friday, September 8, 2017 7:32 AM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>;
Morris, Jeff <Morris.Jeff@epa.gov>
Subject: Conversation with DOJ -- ACC involvement

Good morning, Nancy. The DOJ attorneys working on the prioritization and RE cases have approval to talk with you about consolidation and can do so this morning.

However, they have received notice that ACC plans to intervene in the case. Can you participate?

Brian Grant
Office of General Counsel
202-564-5503

To: Fotouhi, David[Fotouhi.David@epa.gov]
Cc: Fugh, Justina[Fugh.Justina@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Beck, Nancy
Sent: Mon 10/2/2017 4:53:26 PM
Subject: Re: Question for you

Thanks. Can we chat about this later today?

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: (b) (6)
Beck.Nancy@epa.gov

On Sep 29, 2017, at 10:45 AM, Fotouhi, David <Fotouhi.David@epa.gov> wrote:

Hi, Nancy. Thanks for reaching out. Let me discuss this with Justina and Kevin (whom I've added to this chain) and get back to you as soon as possible.

Best,

David

David Fotouhi

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

From: Beck, Nancy
Sent: Friday, September 29, 2017 10:37 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Question for you

David,

I'm supposed to give a talk next Friday at the National Academies board meeting about our TSCA implementation. This is a closed door meeting however one of the board members is Bob Sussman, who is lead counsel for SCHF which is suing us on the TSCA rules. I'm wondering what this means for my ability to give a general talk about the rules and our TSCA implementation. Similarly, in 2 weeks I am supposed to give a similar update to the local Society of Toxicology chapter on TSCA, where participants/attendees may likely include some from the groups that are suing us. If it wasn't me giving these talks, it would be Jeff Morris or someone from his shop.

Are there constraints on what we (OCSPP) can/cannot talk about publicly for the next 6 months or so while these rules are being litigated? I cant imagine a scenario where we are silenced in talking about our implementation publicly but if there are certain areas we need to stay away from please let me know. I am still recused from working on the litigation but I'm not sure that impacts my ability, or OPPTs ability to talk generally about our TSCA implementation.

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Thanks.

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Beck, Nancy
Sent: Fri 7/21/2017 4:40:29 PM
Subject: RE: Non Profit activities

Ok- thanks! Back to back meetings today but I will try to find a window of calm to speak with you next week.

Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Friday, July 21, 2017 11:29 AM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Subject: RE: Non Profit activities

Nancy,

And this is why you're a favorite client: you listen and want to know more! I'm in the office all day today and next week, so just ask your staff assistant to give me a call so we can find 15 minutes.

Best,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308

North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Thursday, July 20, 2017 8:09 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Non Profit activities

Oye Vey! How can I possibly be a favorite client when I have screwed this up so badly!

Thanks for updating the 278 for me. I will find out when I started in both positions. I really don't think I have a fiduciary role in either, but perhaps I don't understand what that means. If its easiest I can simply remove myself from both positions. If I did remain on the board of EBTC, in a non-fiduciary role, it sounds like my participation would have to be on my own behalf and not as EPA at all, is that correct? Andy Rooney clearly represents NIEHS when he is at meetings, but it sounds like you are suggesting a different role for me.

I'm thinking it may be easiest to just drop both boards. Perhaps we can chat about this?

Thanks!
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Thursday, July 20, 2017 11:01 AM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Subject: RE: Non Profit activities

Hi Nancy,

I was on vacation all last week and am now slogging through emails. My “office husband” is retiring next week, and his party is this week, so I’m completely overwhelmed. I am SO SORRY to be tardy in responding to your note as you are one of my new favorite clients!

1) I am on the board of trustees of the Evidence Based Toxicology Collaboration. <http://www.ebtox.org/about-us/>. EBTC was formally founded in 2011 at Johns Hopkins Bloomberg School of Public Health with the vision to improve the public health outcomes and reduce human impact on the environment by bringing evidence-based approaches to safety sciences. Our mission: Bring together the international toxicology community to facilitate use of evidence-based toxicology to inform regulatory, environmental and public health decisions.

a. Is it ok for me to continue to participate on this board? The work they do is very relevant to the work we are doing in OCSPP. There is someone from NIEHS on the board and I believe he participates fully (but perhaps does not formally vote or comment on budget). My participation could be done from my personal computer on my personal time if that makes it easier.

JUSTINA: Oh dear, you did not report that position on your 278! It’s reportable as a “position held outside of government.” I will have to amend your report and adjust your recusal statement. When did that position start (month and year)? With regard to your ethics obligations, EPA cannot allow any employee to serve in official capacity in a fiduciary position with any outside organization. We lack the statutory authority to do so. I will have to check with NIEHS about Dr. Andrew Rooney and whether he serves in his official capacity or not. If he doesn’t, then you may continue to serve in your personal capacity, but you will have a financial conflict of interest with Johns Hopkins (because, under the financial conflict of interest statute, the interests of any organization that you serve in a fiduciary role are imputed to you). That’s why I will have to adjust your recusal statement too. You may add your EPA position to your bio, but you cannot represent EPA and you can’t allow your EPA position to have any undue influence (meaning that it can’t be the only thing you list).

2) I am a trustee of the Toxicology Education Foundation:

<http://toxedfoundation.org/about/#mission>. The Toxicology Education Foundation (TEF) is a non-profit charitable 501 (c)(3) foundation whose mission is to enhance public understanding of toxicology through access to objective, science-based information on the safety of chemicals and other agents encountered in daily life.

a. I am also chair of the marketing subcommittee—which I’m planning to step down from as I simply don’t have time but would like to stay on as a trustee if I can. Currently someone from NIH participates as a Government Liaison, rather than as an official trustee. Is this a role I could switch to?

JUSTINA: Again, this role was not reported on your 278 and is not addressed in your recusal statement. As explained above, EPA cannot allow you to serve in your official capacity. I see from the website that Suzanne Fitzpatrick is listed as representing FDA and Philip Wexler is the government liaison. I infer that they are both serving in their official capacities (unlike EPA, NIH and FDA have statutory authority to allow employees to serve on outside boards in their official capacity). This means that you as a federal employee are barred by 18 USC 205 from representing the TEF back to those federal officials. If you want to serve in a fiduciary role in your personal capacity when there are federal employees serving in their official capacity, then you will be in violation of 18 USC 205. This result is desperately unfair and, I believe, an unexpected consequence of the representational conflict of interest statute. I have raised this issue with the Office of Government Ethics and with other federal officials, and we’re completely gobsmacked about what to do about solving the problem. There is no waiver provision under the representational conflicts statutes.

I need to at least add this position to your 278 and your recusal statement, so tell me when you started (month and year). Then you need to think about whether you really want to continue to serve as a trustee. You can do so only in your personal capacity, but be mindful of the fact that, if you continue, you will technically be representing the interests of another (the board) back to the United States (the feds who serve in their official capacity). Quite frankly, many people (including ethics officials) simply ignore this problem.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Monday, July 17, 2017 12:28 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Fwd: Non Profit activities

Justina,

Any thought on this?

Thanks.

Nancy.

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: [202-564-1273](tel:202-564-1273)
M: (b) (6)
Beck.Nancy@epa.gov

Begin forwarded message:

From: "Beck, Nancy" <Beck.Nancy@epa.gov>
Date: July 7, 2017 at 6:55:03 PM EDT
To: "Fugh, Justina" <Fugh.Justina@epa.gov>
Subject: Non Profit activities

Justina,

I wanted to check with you regarding my participation with two non-profits. Both are toxicology related and relevant for the work I'm doing at EPA.

1) I am on the board of trustees of the Evidence Based Toxicology Collaboration. <http://www.ebtox.org/about-us/>. EBTC was formally founded in 2011 at Johns Hopkins Bloomberg School of Public Health with the vision to improve the public health outcomes and reduce human impact on the environment by bringing evidence-based approaches to safety sciences. Our mission: Bring together the international toxicology community to facilitate use of evidence-based toxicology to inform regulatory, environmental and public health decisions.

a. Is it ok for me to continue to participate on this board? The work they do is very relevant to the work we are doing in OCSPP. There is someone from NIEHS on the board and I believe he participates fully (but perhaps does not formally vote or comment on budget). My participation could be done from my personal computer on my personal time if that makes it easier.

2) I am a trustee of the Toxicology Education Foundation: <http://toxeducfoundation.org/about/#mission>. The Toxicology Education Foundation (TEF) is a non-profit charitable 501 (c)(3) foundation whose mission is to enhance public understanding of toxicology through access to objective, science-based information on the safety of chemicals and other agents encountered in daily life.

a. I am also chair of the marketing subcommittee—which I'm planning to step down from as I simply don't have time but would like to stay on as a trustee if I can. Currently someone from NIH participates as a Government Liaison, rather than as an official trustee. Is this a role I could switch to?

Please let me know what other information you may need.

Thanks,
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Beck, Nancy
Sent: Fri 5/26/2017 8:04:04 PM
Subject: RE: another ethics question

Is anything easy around here??

Mama-mia!

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Friday, May 26, 2017 4:02 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Subject: RE: another ethics question

Hi,

The ethics travel form is a dinosaur, so it's still in Lotus Notes. You will need to contact EZTech for an updated Lotus Notes account/ID and set a password. That's the worst part. To find the form itself, go to <http://intranet.epa.gov/ogc/ethics/travel.htm>. You will need to fill out some information and then route it to your own Deputy Ethics Official, who is Wendy Cleland Hamnett. She'll review the electronic form and then route it to us in OGC/Ethics for final approval. We turn around requests within a couple of days or even faster if necessary.

If the event is less than 50 miles from the duty station, then you cannot use the ethics travel form (because you will not be in travel status). In that case, please consult with us because we will have to see if there is some other way to accept whatever gift is offered (free attendance, free

food, waiver of conference fee, etc.).

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Friday, May 26, 2017 3:10 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: another ethics question

Thank you Justina.

I would likely be doing this in official capacity. Good to know I need a form for each event.
What if its within 50 miles (eg local), I presume I still need a form despite their being no travel?

I will look for the form on the web. How long is the typical approval process?
thank you (again)!!

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Friday, May 26, 2017 2:42 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Subject: RE: another ethics question

Hi Nancy,

There are two lanes on my ethics highway: official duty and a separate lane for personal capacity (have attached a chatty document we distributed back in February 2017 as a reminder, in case you're interested). I will always start by asking if you are speaking in your official capacity or not. If you are, then you can use official time, be placed on official travel, can use subordinates to prepare remarks, be referenced by your official EPA title and position, and speak on behalf of the Agency but can't share nonpublic information. EPA will pay for your travel or, if a non-federal entity makes an unsolicited offer to pay for your travel, then you may ask OGC/Ethics to accept. We make you use an electronic form that you must get us to approve in advance. This works only if you will be in official travel status (more than 50 miles from the duty station) and you'll be at a meeting or conference or other exchange of information. Can never be used in connection with non-discretionary duties.

If you will in personal capacity, then you must be on annual leave, can't refer to your EPA position and title (except as one of several biographical details with EPA not having any undue prominence), can't use subordinates or the EPA seal, can't share nonpublic information, and can't speak on behalf of EPA.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Thursday, May 25, 2017 5:41 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: another ethics question

Justina,

Are there any restrictions regarding my participating on panels or giving talks at scientific meetings?

I presume I would have to somehow get this approved by management, but otherwise would there be any ethics concerns?

This would scientific meetings that if they involved travel, I'm sure EPA would pay my way (and I likely would go to the meeting anyways)

Thanks!
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Beck, Nancy
Sent: Fri 5/26/2017 7:09:54 PM
Subject: RE: another ethics question

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I will look for the form on the web. How long is the typical approval process?
thank you (again)!!

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Friday, May 26, 2017 2:42 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Subject: RE: another ethics question

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if a non-federal entity makes an unsolicited offer to pay for your travel, then you may ask OGC/Ethics to accept. We make you use an electronic form that you must get us to approve in advance. This works only if you will be in official travel status (more than 50 miles from the duty station) and you'll be at a meeting or conference or other exchange of information. Can never be used in connection with non-discretionary duties.

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Thanks!
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Beck, Nancy[beck.nancy@epa.gov]
Cc: Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Fugh, Justina
Sent: Fri 9/8/2017 5:21:48 PM
Subject: RE: your recusal statement didn't designate someone else

I will take your suggestion under advisement. Remember, you can't participate by telling me who should participate, but because we weren't clear in your recusal statement, I had to ask you for some guidance *generally*. But I agree that, once you have a PDAA, the default will always be to that position.

Justina

From: Beck, Nancy
Sent: Friday, September 08, 2017 1:12 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: your recusal statement didn't designate someone else

For participation in this particular matter, I think it should be Jeff Morris, the Office Director. Once we have a PDAA, it should probably be that person.

Thank you!

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Friday, September 8, 2017 12:57 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: your recusal statement didn't designate someone else

Hi again,

We didn't suggest that you designate anyone to participate in your absence, and now it's inappropriate for you to participate by telling us who should participate in this specific party matter instead of you. But I can ask you to tell me, going forward, what person you would like us to contact to make those decisions generally. I was thinking either the affected office director or Louise Wise. Any preference?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Friday, September 08, 2017 12:21 PM
To: Beck, Nancy <beck.nancy@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

Hi Nancy,

I was out of the office this morning to Ex. 6 - Personal Privacy and have a strict rule that I don't read emails or text while driving! Consequently, I didn't see your message until I got into the office. I did talk to Brian Grant, who explained that ACC, the entity with whom you have a covered relationship pursuant 5 CFR 2635.502(b)(iv), has filed a motion to intervene in a lawsuit. Although the court has not yet ruled on that motion, we are now on notice about ACC's intention. For ethics purposes, the lawsuit is a specific party matter and your recusal indicates that you will not participate in any such matter in

which ACC is a party or represents a party unless you first seek approval from OGC/Ethics. The terms of your 6/9/17 recusal and the 6/8/17 impartiality determination do not extend to your participation in this lawsuit now that we know ACC plans to participate as a specific party. You are not permitted to participate in this litigation going forward, and cannot participate in the phone call later today.

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relationship; (3) the nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in

the matter; (4) the sensitivity of the matter; (5) The difficulty of reassigning the matter to another employee; and (6) adjustments that may be made in

the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

To be clear, until such time as OGC/Ethics issues you any impartiality determination – and I am not yet indicating that we would – you cannot participate in this litigation.

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From: Beck, Nancy
Sent: Friday, September 08, 2017 7:35 AM
To: Grant, Brian <Grant.Brian@epa.gov>
Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>; Morris, Jeff <Morris.Jeff@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

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However, I would think that until they actually intervene, there should be no concern.

Thanks.

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Grant, Brian

Sent: Friday, September 8, 2017 7:32 AM

To: Beck, Nancy <Beck.Nancy@epa.gov>

Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>;
Morris, Jeff <Morris.Jeff@epa.gov>

Subject: Conversation with DOJ -- ACC involvement

Good morning, Nancy. The DOJ attorneys working on the prioritization and RE cases have approval to talk with you about consolidation and can do so this morning.

However, they have received notice that ACC plans to intervene in the case. Can you participate?

Brian Grant
Office of General Counsel
202-564-5503

To: Beck, Nancy[Beck.Nancy@epa.gov]
From: Fugh, Justina
Sent: Tue 5/30/2017 10:59:13 PM
Subject: Re: Ethics question

Correct, because the participant indicates he will be representing ACC. Btw, Kevin will be back Thursday to look at your impartiality determination!
Justina

Sent from my iPhone

On May 30, 2017, at 6:15 PM, Beck, Nancy <Beck.Nancy@epa.gov> wrote:

Justina,

I've been invited to a meeting tomorrow where the invite says this:

Outside Participants: David Vitter and Stephen Aaron of Mercury Public Affairs representing the American Chemistry Council (ACC);

If someone is coming in on behalf of ACC, I should still be recused, correct? Even if they are not ACC themselves. Is this correct?

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Beck, Nancy[beck.nancy@epa.gov]
From: Fugh, Justina
Sent: Fri 5/26/2017 8:04:44 PM
Subject: RE: another ethics question

I am pleading the fifth.

From: Beck, Nancy
Sent: Friday, May 26, 2017 4:04 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: another ethics question

Is anything easy around here??

Mama-mia!

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Friday, May 26, 2017 4:02 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Subject: RE: another ethics question

Hi,

The ethics travel form is a dinosaur, so it's still in Lotus Notes. You will need to contact EZTech for an updated Lotus Notes account/ID and set a password. That's the worst part. To find the form itself, go to <http://intranet.epa.gov/ogc/ethics/travel.htm>. You will need to fill out some information and then route it to your own Deputy Ethics Official, who is Wendy Cleland Hamnett. She'll review the electronic form and then route it to us in OGC/Ethics for final approval. We turn around requests within a couple of days or even faster if necessary.

If the event is less than 50 miles from the duty station, then you cannot use the ethics travel form (because you will not be in travel status). In that case, please consult with us because we will have to see if there is some other way to accept whatever gift is offered (free attendance, free food, waiver of conference fee, etc.).

Justina

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From: Beck, Nancy
Sent: Friday, May 26, 2017 3:10 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: another ethics question

Thank you Justina.

I would likely be doing this in official capacity. Good to know I need a form for each event. What if its within 50 miles (eg local), I presume I still need a form despite their being no travel?

I will look for the form on the web. How long is the typical approval process?
thank you (again)!!

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina

Sent: Friday, May 26, 2017 2:42 PM

To: Beck, Nancy <Beck.Nancy@epa.gov>

Subject: RE: another ethics question

Hi Nancy,

There are two lanes on my ethics highway: official duty and a separate lane for personal capacity (have attached a chatty document we distributed back in February 2017 as a reminder, in case you're interested). I will always start by asking if you are speaking in your official capacity or not. If you are, then you can use official time, be placed on official travel, can use subordinates to prepare remarks, be referenced by your official EPA title and position, and speak on behalf of the Agency but can't share nonpublic information. EPA will pay for your travel or, if a non-federal entity makes an unsolicited offer to pay for your travel, then you may ask OGC/Ethics to accept. We make you use an electronic form that you must get us to approve in advance. This works only if you will be in official travel status (more than 50 miles from the duty station) and you'll be at a meeting or conference or other exchange of information. Can never be used in connection with non-discretionary duties.

If you will in personal capacity, then you must be on annual leave, can't refer to your EPA position and title (except as one of several biographical details with EPA not having any undue prominence), can't use subordinates or the EPA seal, can't share nonpublic information, and can't speak on behalf of EPA.

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From: Beck, Nancy
Sent: Thursday, May 25, 2017 5:41 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: another ethics question

Justina,

Are there any restrictions regarding my participating on panels or giving talks at scientific meetings?

I presume I would have to somehow get this approved by management, but otherwise would there be any ethics concerns?

This would scientific meetings that if they involved travel, I'm sure EPA would pay my way (and I likely would go to the meeting anyways)

Thanks!
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Beck, Nancy[beck.nancy@epa.gov]
Cc: Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Fugh, Justina
Sent: Fri 9/8/2017 4:57:30 PM
Subject: your recusal statement didn't designate someone else
[Recusal Statement Beck.pdf](#)
[Impartiality determination final.pdf](#)

Hi again,

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Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>; Morris, Jeff <Morris.Jeff@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>
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P: 202-564-1273

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Office of General Counsel
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To: Beck, Nancy[beck.nancy@epa.gov]
From: Fugh, Justina
Sent: Fri 5/26/2017 8:02:24 PM
Subject: RE: another ethics question

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Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

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Sent: Friday, May 26, 2017 2:42 PM

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Subject: RE: another ethics question

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Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M:

(b) (6)

beck.nancy@epa.gov

To: Fotouhi, David[fotouhi.david@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Fugh, Justina
Sent: Mon 10/2/2017 1:13:28 AM
Subject: RE: Question for you

David and Kevin,

I don't have any federal ethics issues to raise for either Bob Sussman or Nancy to raise, except to remind Nancy (as she already knows) not to share information that is not public.

Justina

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North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
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From: Fotouhi, David
Sent: Friday, September 29, 2017 10:45 AM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: RE: Question for you

Hi, Nancy. Thanks for reaching out. Let me discuss this with Justina and Kevin (whom I've added to this chain) and get back to you as soon as possible.

Best,

David

David Fotouhi

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

From: Beck, Nancy

Sent: Friday, September 29, 2017 10:37 AM

To: Fotouhi, David <Fotouhi.David@epa.gov>

Cc: Fugh, Justina <Fugh.Justina@epa.gov>

Subject: Question for you

David,

I'm supposed to give a talk next Friday at the National Academies board meeting about our TSCA implementation. This is a closed door meeting however one of the board members is Bob Sussman, who is lead counsel for SCHF which is suing us on the TSCA rules. I'm wondering what this means for my ability to give a general talk about the rules and our TSCA implementation. Similarly, in 2 weeks I am supposed to give a similar update to the local Society of Toxicology chapter on TSCA, where participants/attendees may likely include some from the groups that are suing us. If it wasn't me giving these talks, it would be Jeff Morris or someone from his shop.

Are there constraints on what we (OCSPP) can/cannot talk about publicly for the next 6 months or so while these rules are being litigated? I cant imagine a scenario where we are silenced in talking about our implementation publicly but if there are certain areas we need to stay away from please let me know. I am still recused from working on the litigation but I'm not sure that impacts my ability, or OPPTs ability to talk generally about our TSCA implementation.

If you want to talk about this, I can be reached on my cell all day (number below).

Thanks.

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M:

(b) (6)

beck.nancy@epa.gov

To: Grant, Brian[Grant.Brian@epa.gov]; Mclean, Kevin[Mclean.Kevin@epa.gov]; Celeste, Laurel[celeste.laurel@epa.gov]; Morris, Jeff[Morris.Jeff@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Wise, Louise[Wise.Louise@epa.gov]
Cc: Beck, Nancy[beck.nancy@epa.gov]; Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Fugh, Justina
Sent: Fri 9/8/2017 4:25:02 PM
Subject: Determination regarding Nancy Beck today
[Recusal Statement Beck.pdf](#)
[Impartiality determination final.pdf](#)

Hi there,

Set forth below is the determination that I made earlier today about whether Dr. Nancy Beck may participate in discussions about a lawsuit in which we now know of ACC's intention to intervene. As you know, Dr. Beck is not a political appointee so is not subject to the terms of Executive Order 13,770, nor is she an attorney subject to state bar rules. As an Administratively Determined appointee, Dr. Beck is, however, subject to the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR Part 2635, and the impartiality standards regarding her former employer, ACC.

At this time, Dr. Beck is recused from any participation in the lawsuit now that we know ACC intends to intervene.

Justina

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From: Fugh, Justina
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Subject: RE: Conversation with DOJ -- ACC involvement

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However, I would think that until they actually intervene, there should be no concern.

Thanks.

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P: 202-564-1273

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Office of General Counsel
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To: Beck, Nancy[beck.nancy@epa.gov]
From: Fugh, Justina
Sent: Fri 5/26/2017 6:42:11 PM
Subject: RE: another ethics question
Which lane are you in-official v personal capacity.pdf

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There are two lanes on my ethics highway: official duty and a separate lane for personal capacity (have attached a chatty document we distributed back in February 2017 as a reminder, in case you're interested). I will always start by asking if you are speaking in your official capacity or not. If you are, then you can use official time, be placed on official travel, can use subordinates to prepare remarks, be referenced by your official EPA title and position, and speak on behalf of the Agency but can't share nonpublic information. EPA will pay for your travel or, if a non-federal entity makes an unsolicited offer to pay for your travel, then you may ask OGC/Ethics to accept. We make you use an electronic form that you must get us to approve in advance. This works only if you will be in official travel status (more than 50 miles from the duty station) and you'll be at a meeting or conference or other exchange of information. Can never be used in connection with non-discretionary duties.

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Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Thursday, May 25, 2017 5:41 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: another ethics question

Justina,

Are there any restrictions regarding my participating on panels or giving talks at scientific meetings?

I presume I would have to somehow get this approved by management, but otherwise would there be any ethics concerns?

This would scientific meetings that if they involved travel, I'm sure EPA would pay my way (and I likely would go to the meeting anyways)

Thanks!
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Beck, Nancy[beck.nancy@epa.gov]
From: Fugh, Justina
Sent: Thur 7/20/2017 3:01:14 PM
Subject: RE: Non Profit activities

Hi Nancy,

I was on vacation all last week and am now slogging through emails. My “office husband” is retiring next week, and his party is this week, so I’m completely overwhelmed. I am SO SORRY to be tardy in responding to your note as you are one of my new favorite clients!

1) I am on the board of trustees of the Evidence Based Toxicology Collaboration.
<http://www.ebtox.org/about-us/>. EBTC was formally founded in 2011 at Johns Hopkins Bloomberg School of Public Health with the vision to improve the public health outcomes and reduce human impact on the environment by bringing evidence-based approaches to safety sciences. Our mission: Bring together the international toxicology community to facilitate use of evidence-based toxicology to inform regulatory, environmental and public health decisions.

a. Is it ok for me to continue to participate on this board? The work they do is very relevant to the work we are doing in OCSPP. There is someone from NIEHS on the board and I believe he participates fully (but perhaps does not formally vote or comment on budget). My participation could be done from my personal computer on my personal time if that makes it easier.

JUSTINA: Oh dear, you did not report that position on your 278! It’s reportable as a “position held outside of government.” I will have to amend your report and adjust your recusal statement. When did that position start (month and year)? With regard to your ethics obligations, EPA cannot allow any employee to serve in official capacity in a fiduciary position with any outside organization. We lack the statutory authority to do so. I will have to check with NIEHS about Dr. Andrew Rooney and whether he serves in his official capacity or not. If he doesn’t, then you may continue to serve in your personal capacity, but you will have a financial conflict of interest with Johns Hopkins (because, under the financial conflict of interest statute, the interests of any organization that you serve in a fiduciary role are imputed to you). That’s why I will have to adjust your recusal statement too. You may add your EPA position to your bio, but you cannot represent EPA and you can’t allow your EPA position to have any undue influence (meaning that it can’t be the only thing you list).

2) I am a trustee of the Toxicology Education Foundation:
<http://toxedfoundation.org/about/#mission>. The Toxicology Education Foundation (TEF) is a non-profit charitable 501 (c)(3) foundation whose mission is to enhance public understanding of

toxicology through access to objective, science-based information on the safety of chemicals and other agents encountered in daily life.

a. I am also chair of the marketing subcommittee—which I’m planning to step down from as I simply don’t have time but would like to stay on as a trustee if I can. Currently someone from NIH participates as a Government Liaison, rather than as an official trustee. Is this a role I could switch to?

JUSTINA: Again, this role was not reported on your 278 and is not addressed in your recusal statement. As explained above, EPA cannot allow you to serve in your official capacity. I see from the website that Suzanne Fitzpatrick is listed as representing FDA and Philip Wexler is the government liaison. I infer that they are both serving in their official capacities (unlike EPA, NIH and FDA have statutory authority to allow employees to serve on outside boards in their official capacity). This means that you as a federal employee are barred by 18 USC 205 from representing the TEF back to those federal officials. If you want to serve in a fiduciary role in your personal capacity when there are federal employees serving in their official capacity, then you will be in violation of 18 USC 205. This result is desperately unfair and, I believe, an unexpected consequence of the representational conflict of interest statute. I have raised this issue with the Office of Government Ethics and with other federal officials, and we’re completely gobsmacked about what to do about solving the problem. There is no waiver provision under the representational conflicts statutes.

I need to at least add this position to your 278 and your recusal statement, so tell me when you started (month and year). Then you need to think about whether you really want to continue to serve as a trustee. You can do so only in your personal capacity, but be mindful of the fact that, if you continue, you will technically be representing the interests of another (the board) back to the United States (the feds who serve in their official capacity). Quite frankly, many people (including ethics officials) simply ignore this problem.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Monday, July 17, 2017 12:28 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Fwd: Non Profit activities

Justina,

Any thought on this?

Thanks.

Nancy.

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: (b) (6)
Beck.Nancy@epa.gov

Begin forwarded message:

From: "Beck, Nancy" <Beck.Nancy@epa.gov>
Date: July 7, 2017 at 6:55:03 PM EDT
To: "Fugh, Justina" <Fugh.Justina@epa.gov>
Subject: Non Profit activities

Justina,

I wanted to check with you regarding my participation with two non-profits. Both are toxicology related and relevant for the work I'm doing at EPA.

1) I am on the board of trustees of the Evidence Based Toxicology Collaboration. <http://www.ebtox.org/about-us/>. EBTC was formally founded in 2011 at Johns Hopkins Bloomberg School of Public Health with the vision to improve the public health outcomes and reduce human impact on the environment by bringing evidence-based approaches to safety sciences. Our mission: Bring together the international toxicology community to facilitate use of evidence-based toxicology to inform regulatory, environmental and public health decisions.

a. Is it ok for me to continue to participate on this board? The work they do is very relevant to the work we are doing in OCSPP. There is someone from NIEHS on the board and I believe he participates fully (but perhaps does not formally vote or comment on budget). My participation could be done from my personal computer on my personal time if that makes it easier.

2) I am a trustee of the Toxicology Education Foundation: <http://toxedfoundation.org/about/#mission>. The Toxicology Education Foundation (TEF) is a non-profit charitable 501 (c)(3) foundation whose mission is to enhance public understanding of toxicology through access to objective, science-based information on the safety of chemicals and other agents encountered in daily life.

a. I am also chair of the marketing subcommittee—which I’m planning to step down from as I simply don’t have time but would like to stay on as a trustee if I can. Currently someone from NIH participates as a Government Liaison, rather than as an official trustee. Is this a role I could switch to?

Please let me know what other information you may need.

Thanks,
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Beck, Nancy[beck.nancy@epa.gov]
From: Fugh, Justina
Sent: Tue 9/12/2017 6:45:08 PM
Subject: RE: Invitation to Speak at NCAC / American Chemical Society Chemical Society of Washington October 13th Symposium

But apparently not closely enough!

From: Beck, Nancy
Sent: Tuesday, September 12, 2017 2:19 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Invitation to Speak at NCAC / American Chemical Society Chemical Society of Washington October 13th Symposium

Phew. But it's nice to see you are looking at these closely and keeping me in mind! I like that.

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: (b) (6)
Beck.Nancy@epa.gov

On Sep 12, 2017, at 2:16 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Oops, it is indeed ACS not ACC (reading too quickly). Sorry about that!

From: Beck, Nancy
Sent: Tuesday, September 12, 2017 2:06 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Invitation to Speak at NCAC / American Chemical Society Chemical Society of Washington October 13th Symposium

I thought the meeting was at ACS, not ACC. See bold at the bottom of chain.

Nancy.

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: (b) (6)
Beck.Nancy@epa.gov

On Sep 12, 2017, at 1:57 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hey, did you see that this event will be held at the ACC offices? If you wish to do this event, you should send me a request so that we can identify whether ACC is a co sponsor or not. If it is, then we will need to assess this invitation under the impartiality standards.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Dourson, Michael (doursoml) [mailto:doursoml@ucmail.uc.edu]
Sent: Monday, September 11, 2017 3:47 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Beck, Nancy <Beck.Nancy@epa.gov>
Subject: FW: Invitation to Speak at NCAC / American Chemical Society Chemical Society of Washington October 13th Symposium

Justina

I originally got this invitation to speak, but then passed it on to our university folks since my confirmation timing was up in the air. My university colleagues cannot make this event, however. Now my confirmation is on September 20, and I may be working at EPA by the time of this meeting, but not in a confirmed capacity. So does it seem reasonable to give this talk from a university professor viewpoint. I am ok with either giving the talk or not, but do not want to leave the group hanging.

What do you think?

I apologize for all of the extra work, but then again, I successfully passed on my Bermuda trip this January to a stellar university professor.

Cheers!

Michael

—The right to search for the truth implies also a duty; one must not conceal any part of what one has recognized to be true. Albert Einstein.

<image003.jpg>

From: Margaret Whittaker <Mwhittaker@toxservices.com>

Date: Monday, September 11, 2017 at 2:00 PM

To: Jacqueline Patterson <PATTEJI@ucmail.uc.edu>

Cc: Michael Dourson <doursoml@ucmail.uc.edu>

Subject: RE: Invitation to Speak at NCAC / American Chemical Society Chemical Society of Washington October 13th Symposium

Dear Jacqueline,

Hello to you, and thank you for the reply! Attached is the current flyer. If you or Mike have any potential suggested speakers, I'm all ears.

Sincerely,

Meg

Margaret H. Whittaker, Ph.D., M.P.H., CBiol., F.R.S.B., E.R.T., D.A.B.T.

Managing Director and Chief Toxicologist
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+44(0) 20 3318 3429 (UK telephone)
(202) 429-8788 (fax)
www.toxservices.com

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[<image002.gif>](#)

From: Patterson, Jacqueline (patteji) [<mailto:PATTEJI@ucmail.uc.edu>]
Sent: Monday, September 11, 2017 1:22 PM
To: Margaret Whittaker <Mwhittaker@toxservices.com>
Cc: Dourson, Michael (doursoml) <doursoml@ucmail.uc.edu>
Subject: Re: Invitation to Speak at NCAC / American Chemical Society Chemical Society of Washington October 13th Symposium

Hi meg. My apologies for delay in responding. I will not be able to accept this invite. Mike might have another idea. I think he's going to contact you.

Thank you.

Jacqueline

Sent from my iPhone

On Sep 11, 2017, at 12:41 PM, Margaret Whittaker <Mwhittaker@toxservices.com> wrote:

Dear Jacqueline,

Hello again to you. We are finalizing our speaker list for the symposium, and I wanted to follow up on my September 1st and 6th emails. Are you interesting and available to speak at the symposium? I have attached the updated symposium agenda. Thank you again for your time and consideration.

Sincerely,

Meg

From: Margaret Whittaker

Sent: Wednesday, September 06, 2017 9:12 PM

To: 'Patterson, Jacqueline (patteji)' <PATTEJI@ucmail.uc.edu>

Cc: 'Jennifer Tanir' <Ex. 6 - Personal Privacy>

Subject: RE: Invitation to Speak at NCAC / American Chemical Society Chemical Society of Washington October 13th Symposium

Dear Jacqueline,

Hello to you. I wanted to confirm that you would be available to speak at the October 13th symposium. Is the proposed title of your talk acceptable, or do you have an alternate title for a presentation. My assistant Charles can coordinate your travel. Attached is the current agenda.

Sincerely,

Meg

Margaret H. Whittaker, Ph.D., M.P.H., CBiol., F.R.S.B., E.R.T., D.A.B.T.

Managing Director and Chief Toxicologist
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(202) 429-8788 (fax)
www.toxservices.com

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[<image001.gif>](#)

From: Margaret Whittaker
Sent: Friday, September 01, 2017 9:07 AM
To: 'Dourson, Michael (doursoml)' <doursoml@ucmail.uc.edu>
Cc: Chen, Tracy <Tracy.Chen@fda.hhs.gov>; Jason E. Schaff
<**Ex. 6 - Personal Privacy**>; Jennifer Tanir <**Ex. 6 - Personal Privacy**>; Patterson,
Jacqueline (patteji) <PATTEJI@ucmail.uc.edu>; Beck, Nancy
<Beck.Nancy@epa.gov>
Subject: RE: Invitation to Speak at NCAC / American Chemical Society
Chemical Society of Washington October 13th Symposium

Dear Mike,

Good morning to you, and thank you for getting back to us right away. We just heard back from Nancy, and she is waiting to see if she has to travel internationally for the Agency, and will update us by mid-Sept. Thank you for the suggestion re Jacqueline. Good luck on your confirmation!

Dear Jacqueline—are you available and interested in speaking? It would be very good to have non-governmental/non-NGO viewpoint during the symposium, too.

Sincerely,

Meg

From: Dourson, Michael (doursoml) [mailto:doursoml@ucmail.uc.edu]
Sent: Friday, September 01, 2017 8:03 AM
To: Margaret Whittaker <Mwhittaker@toxservices.com>
Cc: Chen, Tracy <Tracy.Chen@fda.hhs.gov>; Jason E. Schaff
<Ex. 6 - Personal Privacy>; Jennifer Tanir <Ex. 6 - Personal Privacy>; Patterson,
Jacqueline (patteji) <PATTEJI@ucmail.uc.edu>; Beck, Nancy
<Beck.Nancy@epa.gov>
Subject: Re: Invitation to Speak at NCAC / American Chemical Society
Chemical Society of Washington October 13th Symposium

Meg

As listed on your program, I have been nominated by President Trump as the assistant administrator of EPA's Office of Chemical Safety and Pollution Prevention. As you know, this is the same office that manages the new TSCA legislation. It is an exciting and humbling opportunity, but one that requires senate confirmation. My committee hearing is slated for some time in late September, with a full senate vote sometime later (presuming that I get voted out of the EPW committee).

So... while I would like to speak at your event, the timing is somewhat problematic. If Nancy Beck agrees to speak, then she can more easily cover any aspect of this new legislation as the principal deputy assistant administrator in this office. Or if you are looking for a university voice, then perhaps ask Jacqueline Patterson of our Risk Science Center. Jacqueline is quite adept at managing independent peer reviews, and has suggested such reviews as one approach to fulfilling this new legislation.

Cheers!

Michael...

...L. Dourson, Ph.D., DABT, FATS, FSRA

Professor

Risk Science Center (formerly TERA)

Department of Environmental Health
University of Cincinnati, College of Medicine
160 Panzeca Way
Cincinnati OH 45267-0056

michael.dourson@uc.edu
513-558-7949
419-892-2502 (Mondays)

<http://eh.uc.edu/tera/>

<image001.jpg>

From: Margaret Whittaker <Mwhittaker@toxservices.com>

Date: Thursday, August 31, 2017 at 7:58 PM

To: Michael Dourson <doursoml@ucmail.uc.edu>

Cc: "Chen, Tracy" <Tracy.Chen@fda.hhs.gov>, "Jason E. Schaff"

<Ex. 6 - Personal Privacy>, Jennifer Tanir <Ex. 6 - Personal Privacy>

Subject: Invitation to Speak at NCAC / American Chemical Society Chemical Society of Washington October 13th Symposium

Dear Mike,

Hello to you, and I hope you've been well, and I look forward to seeing you at the autumn NSF HAB meeting. The SOT National Capital Area Chapter (NCAC) and the American Chemical Society's Chemical Society of Washington Chapter **are jointly hosting a symposium on October 13th at ACS Headquarters in Washington, D.C.** The topic will be TSCA, and we would be grateful if you would speak at the symposium. I would very much like to balance out the points of view at the symposium, and I have always valued your insight.

We have attached a draft symposium agenda with proposed topics for invited speakers. Would you please inform us as to your availability to

participate, and I'll coordinate the logistics. Thank you very much for your time and consideration.

Sincerely,

Meg Whittaker (NCAC Vice-President)

Jen Tanir (CSW Secretary)

Margaret H. Whittaker, Ph.D., M.P.H., CBiol., F.R.S.B., E.R.T., D.A.B.T.

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<NCAC CSW NCAC Symposium Agenda October 13 2017 Update 2.docx>

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<image001.jpg>

<image002.gif>

<NCAC CSW NCAC Symposium Agenda October 13 2017 Update 2.docx>

To: Beck, Nancy[beck.nancy@epa.gov]
From: Fugh, Justina
Sent: Tue 8/1/2017 1:40:11 PM
Subject: RE: Gentle reminder from OGC/Ethics: Any transactions to report?

Hi Nancy,

Yes, I'm here on Friday. That's the easy part. Now the harder part. Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

If the Ex. 6 - Personal Privacy and no single transaction is \$1000 or more, then you DO NOT have to report that transaction. You report only those transactions (purchase or sale) of \$1000 or more, which I don't think is what happens with you.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Tuesday, August 01, 2017 7:24 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Gentle reminder from OGC/Ethics: Any transactions to report?

Justina,

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Do I need to report this.

Also, are you here this Friday?

Thanks!

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: DCOGCLN1/DC/USEPA/US [<mailto:DCOGCLN1/DC/USEPA/US@epamail.epa.gov>]

Sent: Tuesday, August 1, 2017 3:00 AM

To: Nancy Beck <Beck.Nancy@epamail.epa.gov>

Subject: Gentle reminder from OGC/Ethics: Any transactions to report?

---- This is your gentle reminder from OGC/Ethics: Do you have a periodic transaction to report?? ----

Dear 278 Filer –

Because you file the OGE 278e, you are also required to file periodic transaction reports using the OGE 278T using INTEGRITY, the new online financial disclosure system created and maintained by the Office of Government Ethics (<https://www.integrity.gov>). You must file a periodic transaction report when you purchase, sell, or exchange certain investments like stocks, bonds, commodities futures, options or other forms of securities if the amount of the transaction exceeds \$1,000. These transactions are reportable even if they occur within brokerage accounts, managed accounts, or other investment vehicles that you own or that are owned by anyone else whose interests are imputed to you (i.e., spouse and/or dependent children).

Please note that not all transactions are reportable on this periodic basis. Don't report transactions of less than \$1000 at a time. And you don't have to file a 278T for transactions involving investments such as mutual funds, exchange traded funds, real estate, or U.S. Treasury notes.

If you have a reportable periodic transaction, then you must file the OGE 278T in INTEGRITY within 30

days of receiving notification of the transaction, but not later than 45 days after the transaction occurs.

You can be fined \$200 for any missed periodic report. If you don't have any reportable transactions, then don't submit a negative report. Keep track of your transactions because even if they aren't reportable periodically, they may still be reportable Schedule B of your next annual filing. Also, the INTEGRITY system will allow you to upload your transactions automatically into the appropriate annual report.

For more assistance on INTEGRITY, check out the OGC/Ethics help page at:

<http://intranet.epa.gov/ogc/Integrity/Landingpage.html>

Thanks!

The OGC/Ethics team

To: Beck, Nancy[beck.nancy@epa.gov]
From: Fugh, Justina
Sent: Wed 5/24/2017 10:47:49 PM
Subject: RE: ethics question

I vote no.

The ethics regulations at 5 CFR 2635.702(b) allow the use of letterhead for recommendations in only two situations: (1) you can refer to EPA position/title if you know the person through your federal work, or (2) you are recommending the person to a federal position. So if the person is someone you know from your OMB days, or the person is applying for a position at another federal agency, then you can refer to your EPA position and title. Please note, however, that EPA frowns on use of official letterhead (and official signature block) even if you otherwise meet the exceptions for misuse of position that I just described. See <http://intranet.epa.gov/ogc/ethics/07-02.pdf>.

What I advise is this: if you don't otherwise meet the exceptions, then use personal letterhead (your home address) or no letterhead at all. You could say that you now work at a federal agency, I guess, but not say which one. On the other hand, if you know the person from OMB or the person is applying for another fed position, then you can technically use EPA letterhead (despite our grumbling) but be sure to say that you are expressing your personal opinion (as opposed to the Agency's).

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Wednesday, May 24, 2017 6:20 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: ethics question

Justina,

I cant find it in the document you gave me, but what are the rules about writing a recommendation for someone (non-EPA) who is looking for a job (non-EPA) but likely wants me to write the recommendation on EPA stationary and/or using my title position? I recall we discussed it but want to make sure I get it right.

Thanks!

Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Beck, Nancy[beck.nancy@epa.gov]
From: Fugh, Justina
Sent: Fri 9/8/2017 4:20:42 PM
Subject: RE: Conversation with DOJ -- ACC involvement
[Recusal Statement Beck.pdf](#)
[Impartiality determination final.pdf](#)

Hi Nancy,

I was out of the office this morning to **Ex. 6 - Personal Privacy** and have a strict rule that I don't read emails or text while driving! Consequently, I didn't see your message until I got into the office. I did talk to Brian Grant, who explained that ACC, the entity with whom you have a covered relationship pursuant 5 CFR 2635.502(b)(iv), has filed a motion to intervene in a lawsuit. Although the court has not yet ruled on that motion, we are now on notice about ACC's intention. For ethics purposes, the lawsuit is a specific party matter and your recusal indicates that you will not participate in any such matter in which ACC is a party or represents a party unless you first seek approval from OGC/Ethics. The terms of your 6/9/17 recusal and the 6/8/17 impartiality determination do not extend to your participation in this lawsuit now that we know ACC plans to participate as a specific party. You are not permitted to participate in this litigation going forward, and cannot participate in the phone call later today.

You may ask OGC/Ethics to consider issuing an impartiality determination. We will consider your request and apply the regulatory factors set forth at 5 CFR 2635.502(d): (1) the nature of the relationship involved; (2) the effect that resolution of the matter would have upon the financial interests of the person involved in the

relationship; (3) the nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in

the matter; (4) the sensitivity of the matter; (5) The difficulty of reassigning the matter to another employee; and (6) adjustments that may be made in

the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

To be clear, until such time as OGC/Ethics issues you any impartiality determination – and I am not yet indicating that we would – you cannot participate in this litigation.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Friday, September 08, 2017 7:35 AM
To: Grant, Brian <Grant.Brian@epa.gov>
Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>;
Morris, Jeff <Morris.Jeff@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Fugh, Justina
<Fugh.Justina@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

Great—lets find a window. I think that after 11:30 I could generally make it work and move meetings around.

Regarding participation, I refer to OGE on that and am looping in Justina. ACC commented on the proposed rule and I was allowed to participate on the final rule so I'm not exactly sure how this is similar/different.

However, I would think that until they actually intervene, there should be no concern.

Thanks.

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Grant, Brian
Sent: Friday, September 8, 2017 7:32 AM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>;
Morris, Jeff <Morris.Jeff@epa.gov>
Subject: Conversation with DOJ -- ACC involvement

Good morning, Nancy. The DOJ attorneys working on the prioritization and RE cases have approval to talk with you about consolidation and can do so this morning.

However, they have received notice that ACC plans to intervene in the case. Can you participate?

Brian Grant
Office of General Counsel
202-564-5503

To: Beck, Nancy[beck.nancy@epa.gov]
Cc: Wise, Louise[Wise.Louise@epa.gov]
From: Fugh, Justina
Sent: Fri 9/22/2017 11:14:18 PM
Subject: RE: confirmation

Oh, let's start with just need the case names if you have that handy. We can track down the case numbers from PTSLO if necessary.

From: Beck, Nancy
Sent: Friday, September 22, 2017 5:47 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Wise, Louise <Wise.Louise@epa.gov>
Subject: Re: confirmation

Got it. Thanks Justina for the update.

Can you get the case numbers from PTSLO or it that something I should track down (on Monday)?

Have a great weekend as well.

Nancy.

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: (b) (6)
Beck.Nancy@epa.gov

On Sep 22, 2017, at 5:44 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Nancy,

This quick note confirms that OGC is inclined to grant you an impartiality determination to allow you to participate in litigation even though your former employer, ACC, has filed a motion to intervene. We need the name of the case or cases, please, and remind you that until you receive the actual written determination, you should still be recused from participation. You may passively receive publicly available information, but please be mindful of the fact that you

ought not actively seek that information.

Have a great weekend,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Beck, Nancy[beck.nancy@epa.gov]
Bcc: Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Fugh, Justina
Sent: Fri 9/22/2017 9:44:23 PM
Subject: confirmation

Hi Nancy,

This quick note confirms that OGC is inclined to grant you an impartiality determination to allow you to participate in litigation even though your former employer, ACC, has filed a motion to intervene. We need the name of the case or cases, please, and remind you that until you receive the actual written determination, you should still be recused from participation. You may passively receive publicly available information, but please be mindful of the fact that you ought not actively seek that information.

Have a great weekend,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Bowman, Liz[Bowman.Liz@epa.gov]; Beck, Nancy[beck.nancy@epa.gov]
Cc: Bahadori, Tina[Bahadori.Tina@epa.gov]; Corona, Elizabeth[Corona.Elizabeth@epa.gov]; Griffio, Shannon[Griffio.Shannon@epa.gov]
From: Fugh, Justina
Sent: Tue 9/12/2017 3:50:42 PM
Subject: RE: Chemical Sectors

Chocolate all around for my favorite ethics clients!

From: Bowman, Liz
Sent: Friday, September 08, 2017 7:41 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Bahadori, Tina <Bahadori.Tina@epa.gov>; Corona, Elizabeth <Corona.Elizabeth@epa.gov>; Griffio, Shannon <Griffio.Shannon@epa.gov>
Subject: RE: Chemical Sectors

Thanks, Justina. Does this mean that Nancy and I get gold ethics stars for the day ☺? And/or at least a piece of delicious chocolate?

From: Fugh, Justina
Sent: Friday, September 8, 2017 6:38 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Bahadori, Tina <Bahadori.Tina@epa.gov>; Corona, Elizabeth <Corona.Elizabeth@epa.gov>; Griffio, Shannon <Griffio.Shannon@epa.gov>
Subject: RE: Chemical Sectors

Hi Nancy and Liz,

I am so happy with both of you that you have correctly identified that the presence of your former employer, ACC, causes you ethics concerns. You are correct in that neither of you can meet with EPA staff to discuss ACC and its interest in or any participation with the agency's sectors concept. The fact that agency officials met with just ACC means that this proposed discussion falls within the scope of your recusals.

It may be possible for Agency officials to talk with you generally about the sectors team and their strategies for engaging outside entities, including but not limited to ACC. However,

OGC/Ethics advises that those officials first consult with us to explain the parameters of your refusal. Shannon Griffo, copied here, is the contact person for recusals here in OGC/Ethics.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy

Sent: Thursday, September 07, 2017 4:15 PM

To: Corona, Elizabeth <Corona.Elizabeth@epa.gov>; Bahadori, Tina <Bahadori.Tina@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>

Cc: Fugh, Justina <Fugh.Justina@epa.gov>

Subject: Chemical Sectors

Elizabeth,

I cant speak for others, but because I came from ACC, I would want to check with OGE to ensure these interactions are appropriate. As such, I've looped in Justina Fugh.

Once I have her ok, I'd be happy to engage with you to talk about the work we are doing in OCSPP and how this may be of interest to the chemicals sectors team.

Thanks Justina!

Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Corona, Elizabeth

Sent: Thursday, September 7, 2017 3:25 PM

To: Bahadori, Tina <Bahadori.Tina@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>;
Bowman, Liz <Bowman.Liz@epa.gov>

Subject: FW: Announcement

Hi again, Nancy, Liz, and Tina.

I wanted to follow up my previous email to let you know that the Sectors Team is officially off the ground and running! See below – Sectors Team paragraph. I am officially the chemical manufacturing contact for our team.

We had a great meeting yesterday with ACC to introduce them to the sectors concept. Our conversations focused largely on permit streamlining and regulatory reform. We didn't really touch on science during the meeting, although I'm sure it will come up in future meetings.

ACC spoke very highly of the chemical sector lead from the previous iteration of the Sector Strategies program. They also indicated that, for the most part, they have good working relationships within EPA.

I'd love to connect with you and your folks at some point in the near future to share more about what's happening with the sectors team and make sure we're taking a coordinated approach to engaging with outside folks. We're still in the very early stages of setting things up. We'd love to get your input early on so we can incorporate it into our plans before we get too far along.

I'm free Monday, Tuesday, and Wednesday next week between 1-3pm each day. Please let me know if you have a half hour during one of those slots for us to connect in person.

Elizabeth

--

Elizabeth Corona, PhD, MBA

Office of Policy | Immediate Office

U.S. Environmental Protection Agency

(Desk) 202-564-8356

From: Kime, Robin **On Behalf Of** Dravis, Samantha

Sent: Wednesday, September 06, 2017 8:17 PM

To: OP-Everyone <OPEveryone@epa.gov>

Subject: Announcement

Dear Colleagues,

For the past several months I've had the pleasure of learning about the many ways the Office of Policy (OP) contributes to the mission of the Environmental Protection Agency. The analysis and support we provide for the agency's most critical functions is of the utmost importance to me. As a cross-media and cross-agency office, I believe that the following changes to OP's organization will enhance our ability to advance Administrator Pruitt's priorities in line with EPA's mission to protect human health and the environment.

Office of Environmental Justice (OEJ): In order to better serve overburdened communities, OEJ will join the Office of Policy. OEJ will work in partnership with the Office of Sustainable Communities, which will be renamed the Office of Community Revitalization. It is important to both Administrator Pruitt and myself that the most underserved and overburdened communities have a meaningful say in environmental protection and regulation. EPA has, and will continue to consider and incorporate environmental justice concerns into our regulatory process and this

move enhances our ability to achieve this core function. It will also enable EPA's EJ program to maximize its ability to support meaningful engagement and public participation across the agency and lead federal level coordination to consider overburdened community needs and the application of federal resources to meet those needs. Moving OEJ to OP allows OECA, where OEJ was previously located, to focus on its mission of enforcement and compliance assurance.

Office of Federal Activities (OFA): OFA will join the Office of Policy where it will continue to carry out its vital responsibilities under the National Environmental Policy Act (NEPA). Also within OFA will be a Permitting Policy Division to build on the successful streamlining efforts in the NEPA program. Together, these organizations will focus on two of the Administration's top priorities: expediting federal infrastructure projects and streamlining permitting processes. This move will reform the agency's permitting and NEPA roles that will streamline the entire environmental review process and reduce subjectivity, providing our stakeholders with more clarity and certainty on their projects; ensure staff are able to quickly elevate high visibility issues to the Administrator for resolution; coordinate with the permitting AAs which will allow the agency to drive solutions to expedite the entire environmental review process, as directed by the President under Executive Order 13766, under one central office; and continue the progress that has already been made to strengthen the NEPA program and our partnerships with our sister federal agencies. OFA staff who work on hazardous waste transport issues will move to the Office of Land and Emergency Management, where complementary work resides.

Sectors Team: I have established a Sectors Team within the Office of Policy's Immediate Office to work with staff across OP and the agency. The Sectors Team will develop strategies that better protect human health and the environment by engaging with partners at all levels to ensure the agency puts forth sensible regulations that encourage economic growth. This team will coordinate with stakeholders to better understand their needs and challenges so as to improve environmental performance and inform smarter and more predictable rulemaking. This work will build upon our experience with the Sector Strategies Program as well as our ongoing work in regulatory and permitting reform.

Operations Office: Over the course of the last year, the Operations Team in the OP Immediate Office started efforts to streamline and improve our administrative and operational activities. To further these efforts, I have established an Operations Office, through which we will consolidate our operations and administrative support functions, leading to increased efficiency and enhanced processes.

Office of Strategic Environmental Management: To fully staff OP's priorities, including the new functions noted above, many OSEM staff will be reassigned to OFA, ORPM, NCEE, and other areas where additional staffing is critical to meeting OP's core mission and the Administration's goals. I appreciate the unique skills and leadership OSEM has brought to numerous cross-cutting EPA priorities over the years and believe that OP's new organizational structure will allow us to better harness their talents. The team will concentrate on streamlining the agency's operations, especially in programmatic areas such as permitting.

The new responsibilities outlined here are a testament to OP's valued expertise and its many past successes. I am excited about the new opportunities for OP, and how we can help the agency

achieve its mission of protecting human health and the environment more efficiently and effectively for the American people.

Samantha

To: Beck, Nancy[beck.nancy@epa.gov]
Cc: Cleland-Hamnett, Wendy[Cleland-Hamnett.Wendy@epa.gov]
From: Fugh, Justina
Sent: Fri 6/23/2017 11:49:10 PM
Subject: RE: meeting approval

Debby Sisco, the assistant deputy ethics official in OPP, is very familiar with that option if you need a contact.

From: Beck, Nancy
Sent: Friday, June 23, 2017 7:21 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>
Subject: Re: meeting approval

Thanks Justina!

Perhaps I will see if we can get a free ride for the crop tour!

Have a great weekend.

Nancy.

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: (b) (6)
Beck.Nancy@epa.gov

On Jun 23, 2017, at 7:18 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Nancy,

Thanks for the email! I don't have any ethics issues to raise with any of the events you listed, including the crop tour. Just remember that EPA has in the past been offered free travel for crop tours, and OGC is able to accept that. But in this case, it looks like EPA will be paying.

Best,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Friday, June 23, 2017 6:19 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>
Subject: meeting approval

Justina,

I realized I have a few speaking events on the calendar and wanted to make sure you were ok with them.

1) June 27, ELI is having an all day TSCA event at GWU. [Details are here](#). Wendy and Jeff from OCSPP will also be speaking.

I'm a speaker on a panel in the afternoon:

1:30 pm Guided Discussion: Science Policy Issues

- **Nancy B. Beck, Ph.D., D.A.B.T., Deputy Assistant Administrator, EPA Office of Chemical Safety and Pollution Prevention (*invited*)**
- **Richard A. Denison, Ph.D., Lead Senior Scientist, Environmental Defense Fund**
- **Bob Diderich, Head of Division, Environment, Health & Safety, Organisation for Economic Cooperation Development**

- Lynn R. Goldman, M.D., M.S., M.P.H., Michael and Lori Milken Dean, Milken Institute School of Public Health; Professor of Environmental and Occupational Health
- Jacqueline Patterson, M.En., Senior Research Scientist, Risk Science Center (formerly TERA Center), University of Cincinnati

2) July 11 at the Toxicology Forum meeting (in Annapolis, so no real travel):

I'm simply a discussant on a panel discussing systematic review. The [full meeting information is here](#), and the session details are below.

I will likely just go to the meeting for the day.

Tuesday, July 11

- 9:00 AM–11:00 AM** **SESSION: Systematic Review – (When) Is it Worth it? A Survey of the Systematic Review Landscape in Toxicology and a Discussion to Inform When and How Systematic Review Can Most Meaningfully Be Used As an Approach to Evaluate Toxicological and Risk Assessment Questions**
- Moderated by Daniele Wikoff*
- 9:00 AM–9:35 AM** **Systematic Review in Toxicology – A Survey of the Landscape, Current Applications, and Lessons Learned**
Daniele Wikoff, ToxStrategies, Inc.
- 9:35 AM–10:00 AM** **Lessons From the Conduct of Systematic Reviews in Risk Assessment: The Utility of Multidisciplinary Teams, Thorough Problem Formulation, and Software Tools**
Katya Tsaoun, Johns Hopkins School of Public Health
- 10:00 AM–10:25 AM** **Systematic Review at EFSA**
Elisa Aiassa, European Food Safety Authority
- 10:25 AM–11:00 AM** **Moderated Panel Discussion**
 Panelists: Vincent Cogliano, Kris Thayer, Suzanne Fitzpatrick, and Nancy Beck, and Speakers

3) Finally not a speaking event, but I am hoping to go on a crop tour this summer. Many from the EPA pesticides program have participated in the past and have found it very useful. Also, its definitely something that is ok for the career folks and I heard Jim Jones

also went and this may have been when he was a political. I've attached the flyer for the event. EPA would pay my expenses.

Please let me know if you have any concerns with these.

Thanks,
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Beck, Nancy[beck.nancy@epa.gov]
Cc: Cleland-Hamnett, Wendy[Cleland-Hamnett.Wendy@epa.gov]
From: Fugh, Justina
Sent: Fri 6/23/2017 11:18:34 PM
Subject: RE: meeting approval

Hi Nancy,

Thanks for the email! I don't have any ethics issues to raise with any of the events you listed, including the crop tour. Just remember that EPA has in the past been offered free travel for crop tours, and OGC is able to accept that. But in this case, it looks like EPA will be paying.

Best,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Friday, June 23, 2017 6:19 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>
Subject: meeting approval

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- **Richard A. Denison, Ph.D., Lead Senior Scientist, Environmental Defense Fund**
- **Bob Diderich, Head of Division, Environment, Health & Safety, Organisation for Economic Cooperation Development**
- **Lynn R. Goldman, M.D., M.S., M.P.H., Michael and Lori Milken Dean, Milken Institute School of Public Health; Professor of Environmental and Occupational Health**
- **Jacqueline Patterson, M.En., Senior Research Scientist, Risk Science Center (formerly TERA Center), University of Cincinnati**

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I will likely just go to the meeting for the day.

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Moderated by Daniele Wikoff

9:00 AM–9:35 AM Systematic Review in Toxicology – A Survey of the Landscape, Current Applications, and Lessons Learned

Daniele Wikoff, ToxStrategies, Inc.

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Katya Tsaoun, Johns Hopkins School of Public Health

10:00 AM–10:25 AM **Systematic Review at EFSA**

Elisa Aiassa, European Food Safety Authority

10:25 AM–11:00 AM **Moderated Panel Discussion**

Panelists: Vincent Coglian, Kris Thayer, Suzanne Fitzpatrick, and Nancy Beck, and Speakers

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Please let me know if you have any concerns with these.

Thanks,
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Jackson, Ryan[jackson.ryan@epa.gov]
Cc: Bowman, Liz[Bowman.Liz@epa.gov]
From: Fugh, Justina
Sent: Wed 6/21/2017 10:05:24 PM
Subject: documents related to Nancy Beck
[Impartiality determination final.pdf](#)
[Recusal Statement Beck.pdf](#)
[correspondence with OGE on ADs.pdf](#)
[correspondence with OGE on ADs in 2009.pdf](#)

Hi there,

You asked for copies of the ethics documents related to Nancy Beck, so here they are.

By the way, the definition of appointee under Executive Order 13770 (and who signs the pledge) is unchanged from Executive Order 13,490 (and who signed the Obama pledge). With respect to the Administratively Determined appointees, I had consulted with the Office of Government of Ethics back in 2009 and confirmed that they did not meet the definition of "appointee" for the purposes of the pledge. Although I don't have any written response from 2009, OGE recently re-confirmed this determination and (I understand) replied to a congressional inquiry that they agree the ADs are not appointees subject to the pledge. I think I'm going to ask OGE for a copy of that response for my files.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

-----Original Message-----

From: Fugh, Justina
Sent: Friday, June 09, 2017 4:28 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Subject: RE: Heads up

Hi Liz,

Nancy Beck signed her recusal statement (see attached). One correction she made necessitated my updating her impartiality determination (she left ACC a week earlier than I realized). So here is the final recusal and the final (really) impartiality determination. I definitely won't be sending these out until next week.

Justina

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-----Original Message-----

From: Bowman, Liz
Sent: Thursday, June 08, 2017 7:08 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Heads up

Thank you for the heads up and the summary! Very helpful

Sent from my iPhone

> On Jun 8, 2017, at 6:22 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

>

> Hi Liz,

> Earlier today, Kevin Minoli signed an impartiality determination for Nancy Beck (see attached). I also sent her a draft recusal statement to sign. Once she does, I'll be able to respond to a bunch of FOIAs and a congressional or two. I will not be able to do any responses until next week at best, but thought I'd give you this heads up now! I have shared this document only with Nancy, Wendy Cleland-Hamnett (the acting AA), and one or two OGC managers, but it's a useful document, so people will surely share it.

>

> Here's a quick summary: With this writing, the Designated Agency Ethics Official confirms that Nancy Beck is permitted to participate in matters of general applicability, including rulemaking, even if her former employer, the American Chemistry Council, has an interest. In addition, he has determined that she may participate in specific comments that are offered by ACC in rulemaking and that she may attend certain meetings at which ACC is present (provided that the discussion is on a particular matter of general applicability and other interested non-federal entities are present as well as other EPA officials). The determination covers the remainder of her one year cooling off period (until April 29, 2018), when it will no longer be necessary. After the cooling off period expires, she may participate freely with ACC.

>

> Cheers,

> Justina

>

> Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

>

>

>

> <Impartiality determination final.pdf>

To: Bowman, Liz[Bowman.Liz@epa.gov]
From: Fugh, Justina
Sent: Fri 6/9/2017 8:28:19 PM
Subject: RE: Heads up
[Impartiality determination final.pdf](#)
[Recusal Statement Beck.pdf](#)

Hi Liz,
Nancy Beck signed her recusal statement (see attached). One correction she made necessitated my updating her impartiality determination (she left ACC a week earlier than I realized). So here is the final recusal and the final (really) impartiality determination. I definitely won't be sending these out until next week.
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Sent: Thursday, June 08, 2017 7:08 PM
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Sent from my iPhone

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>

> Here's a quick summary: With this writing, the Designated Agency Ethics Official confirms that Nancy Beck is permitted to participate in matters of general applicability, including rulemaking, even if her former employer, the American Chemistry Council, has an interest. In addition, he has determined that she may participate in specific comments that are offered by ACC in rulemaking and that she may attend certain meetings at which ACC is present (provided that the discussion is on a particular matter of general applicability and other interested non-federal entities are present as well as other EPA officials). The determination covers the remainder of her one year cooling off period (until April 29, 2018), when it will no longer be necessary. After the cooling off period expires, she may participate freely with ACC.

>

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> Justina

>

> Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

>

>
>
> <Impartiality determination final.pdf>

To: Beck, Nancy[beck.nancy@epa.gov]
Cc: Cleland-Hamnett, Wendy[Cleland-Hamnett.Wendy@epa.gov]
From: Fugh, Justina
Sent: Fri 6/9/2017 7:43:26 PM
Subject: RE: signed impartiality determination and draft recusal statement
Impartiality determination final.pdf

Got it. And I had to make the corresponding change to the impartiality determination, so I replaced that page. Here is the revised pdf with the corrected date on page 3.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Friday, June 09, 2017 3:19 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>
Subject: RE: signed impartiality determination and draft recusal statement

You have a keen eye—thank you!

Please see revised. I also corrected a few other typos and noted that my recusal date ends April 21, 2018 (as April 21 was my last day at ACC, not Apr. 29).

Please let me know if you have other suggestions.

Thanks!
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M:

(b) (6)

beck.nancy@epa.gov

From: Fugh, Justina

Sent: Friday, June 9, 2017 2:17 PM

To: Beck, Nancy <Beck.Nancy@epa.gov>

Cc: Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>

Subject: RE: signed impartiality determination and draft recusal statement

Hi Nancy,

Thanks for signing the document (and dating it, which some people forget to do!). You did not, however, include any of the cc's and there's an odd typo in the letterhead itself ("Washington" appears on the same line as the agency's title, separated from the rest of the address). Think about whether you want to redo the statement. Just so you know, both the impartiality determination and the recusal statement are subject to FOIA and will be released. There is no privilege or exception that applies to either document.

I have already advised Liz Bowman that the documents are signed, but I don't expect to get around to releasing them under FOIA until next week. So I have time if you want to make those small changes to your recusal statement. If not, what I have is fine.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Friday, June 09, 2017 10:16 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>
Subject: RE: signed impartiality determination and draft recusal statement

Justina,

Thank you very much for this. Attached is the signed recusal statement.
Is it correct to presume that these documents would be released in response to FOIA requests, or would these be held confidential?

Please let me know if you need anything else.

Thanks again!

Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Thursday, June 8, 2017 6:14 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>
Subject: signed impartiality determination and draft recusal statement

Hi Nancy,

Attached please find the impartiality determination that Kevin Minoli signed earlier today. With this writing, the Designated Agency Ethics Official confirms that you are permitted to participate in matters of general applicability, including rulemaking, even if your former employer has an interest. In addition, he has determined that you may participate in specific comments that are offered by ACC in rulemaking and that you may attend certain meetings at which ACC is present (provided that the discussion is on a particular matter of general applicability and other interested non-federal entities are present as well as other EPA officials). The determination covers the remainder of your cooling off period (until April 29, 2018), when it will no longer be necessary. After your cooling off period expires, you may participate freely with ACC. If there is an ACC-related meeting that OCSPP believes you must attend between now and April 29, 2018, then Wendy may ask OGC/Ethics to consider that.

I have drafted a recusal statement that you should review and, if no changes, print out on OCSPP letterhead and then date and sign. Please send a pdf of the statement back to me for my files.

I hope that you are getting acclimated to EPA and have a great weekend.

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Beck, Nancy[beck.nancy@epa.gov]
Cc: Cleland-Hamnett, Wendy[Cleland-Hamnett.Wendy@epa.gov]
From: Fugh, Justina
Sent: Fri 6/9/2017 6:16:37 PM
Subject: RE: signed impartiality determination and draft recusal statement

Hi Nancy,

Thanks for signing the document (and dating it, which some people forget to do!). You did not, however, include any of the cc's and there's an odd typo in the letterhead itself ("Washington" appears on the same line as the agency's title, separated from the rest of the address). Think about whether you want to redo the statement. Just so you know, both the impartiality determination and the recusal statement are subject to FOIA and will be released. There is no privilege or exception that applies to either document.

I have already advised Liz Bowman that the documents are signed, but I don't expect to get around to releasing them under FOIA until next week. So I have time if you want to make those small changes to your recusal statement. If not, what I have is fine.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Friday, June 09, 2017 10:16 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>
Subject: RE: signed impartiality determination and draft recusal statement

Justina,

Thank you very much for this. Attached is the signed recusal statement.
Is it correct to presume that these documents would be released in response to FOIA requests, or would these be held confidential?

Please let me know if you need anything else.

Thanks again!

Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina

Sent: Thursday, June 8, 2017 6:14 PM

To: Beck, Nancy <Beck.Nancy@epa.gov>

Cc: Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>

Subject: signed impartiality determination and draft recusal statement

Hi Nancy,

Attached please find the impartiality determination that Kevin Minoli signed earlier today. With this writing, the Designated Agency Ethics Official confirms that you are permitted to participate in matters of general applicability, including rulemaking, even if your former employer has an interest. In addition, he has determined that you may

participate in specific comments that are offered by ACC in rulemaking and that you may attend certain meetings at which ACC is present (provided that the discussion is on a particular matter of general applicability and other interested non-federal entities are present as well as other EPA officials). The determination covers the remainder of your cooling off period (until April 29, 2018), when it will no longer be necessary. After your cooling off period expires, you may participate freely with ACC. If there is an ACC-related meeting that OCSPP believes you must attend between now and April 29, 2018, then Wendy may ask OGC/Ethics to consider that.

I have drafted a recusal statement that you should review and, if no changes, print out on OCSPP letterhead and then date and sign. Please send a pdf of the statement back to me for my files.

I hope that you are getting acclimated to EPA and have a great weekend.

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Bowman, Liz[Bowman.Liz@epa.gov]
From: Fugh, Justina
Sent: Thur 6/8/2017 10:22:24 PM
Subject: Heads up
[Impartiality determination final.pdf](#)

Hi Liz,

Earlier today, Kevin Minoli signed an impartiality determination for Nancy Beck (see attached). I also sent her a draft recusal statement to sign. Once she does, I'll be able to respond to a bunch of FOIAs and a congressional or two. I will not be able to do any responses until next week at best, but thought I'd give you this heads up now! I have shared this document only with Nancy, Wendy Cleland-Hamnett (the acting AA), and one or two OGC managers, but it's a useful document, so people will surely share it.

Here's a quick summary: With this writing, the Designated Agency Ethics Official confirms that Nancy Beck is permitted to participate in matters of general applicability, including rulemaking, even if her former employer, the American Chemistry Council, has an interest. In addition, he has determined that she may participate in specific comments that are offered by ACC in rulemaking and that she may attend certain meetings at which ACC is present (provided that the discussion is on a particular matter of general applicability and other interested non-federal entities are present as well as other EPA officials). The determination covers the remainder of her one year cooling off period (until April 29, 2018), when it will no longer be necessary. After the cooling off period expires, she may participate freely with ACC.

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

JUN - 8 2017

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Participation in Specific Party Matters Involving Your Former Employer, the American Chemistry Council

FROM: Kevin S. Minoli *KSM*
Designated Agency Ethics Official and
Acting General Counsel

TO: Nancy Beck, Ph.D., DABT
Deputy Assistant Administrator
Office of Chemical Safety and Pollution Prevention

Effective April 30, 2017, you joined the United States Environmental Protection Agency (EPA) in an Administratively Determined (AD) position as the Deputy Assistant Administrator for the Office of Chemical Safety and Pollution Prevention (OCSPP). In this position, you are responsible for advising the Acting Assistant Administrator in matters pertaining to chemical safety, pollution prevention, pesticides and toxic substances, including implementation of rulemaking under applicable federal statutes. Previous to your selection, you served as the Senior Director of Regulatory Science Policy at the American Chemistry Council (ACC), which represents companies that are directly regulated by EPA. You seek permission to participate in specific party matters involving your former employer.

In providing my advice, I have taken into consideration the fact that, as an AD appointment, you are not required to sign the Trump ethics pledge because this type of appointment falls outside the definition of "appointee" set forth at Executive Order 13,770 at Section 2(b).¹ You do not have any financial conflict of interest with your former employer, so the ethics rules to be applied to you are set forth in the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635, specifically Subpart E, "Impartiality in Performing Official Duty." Pursuant to 5 C.F.R. § 2635.502(b)(1)(iv), you have a "covered relationship" with ACC as your former employer. For one year from the time you resigned from ACC, absent an impartiality determination from me, you cannot participate in any specific party matter in which ACC is a party or represents a party if that matter is likely to have a direct and predictable financial effect upon the ACC or if the circumstances would cause a reasonable

¹ See Office of Government Ethics advisories entitled "Guidance on Executive Order 13770," LA-17-03 (3/20/27) and Executive Order 13770," LA-17-02 (2/6/17), which apply the following OGE advisories from the last administration in full: "Who Must Sign the Ethics Pledge?" DO-09-010 (3/16/09); and "Signing the Ethics Pledge," DO-09-005 (2/10/09).

person with knowledge of the relevant facts to question your impartiality. *See* 5 C.F.R. § 2635.502(a).

It is important to note that the ethical restriction applies only to particular matters involving specific parties, not to particular matters of general applicability. Generally speaking, a “specific party” matter is a “proceeding affecting the legal rights of parties, or an isolatable transaction or related set of transactions between identified parties.” *See* 5 C.F.R. § 2640.102(1). Rulemaking is not usually a “specific party” matter but rather a matter of general applicability, which involves “deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons.” *See* 5 C.F.R. § 2640.103(a)(1). Therefore, under the ethics regulations, you may participate in rulemaking, even if that rulemaking may affect the members of your former employer. While you can ethically work on rulemaking in general, you have been advised -- and understand -- that you cannot participate in any meetings, discussions or decisions that relate to any individual ACC comment nor attend any meeting at which ACC is present.

As provided by the ethics regulations, however, federal ethics officials can nonetheless permit employees to participate in matters that might raise impartiality concerns when the interest of the federal government in that employee’s participation outweighs concern over the questioning of the “integrity of the agency’s programs and operations.” *See* 5 C.F.R. § 2635.502(d). The factors that we can take into consideration are:

- (1) the nature of the relationship involved;
- (2) the effect that resolution of the matter will have upon the financial interest of the person affected in the relationship;
- (3) the nature and importance of the employee’s role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter;
- (4) the sensitivity of the matter;
- (5) the difficulty of reassigning the matter to another employee; and
- (6) adjustments that may be made in the employee’s duties that would reduce or eliminate the likelihood that a reasonable person would question the employee’s impartiality.

In reviewing these factors, I have decided to allow you to participate fully in matters of general applicability, including rulemaking, including consideration of any comments that were made by ACC. In making this determination, I have taken the following factors into consideration:

- While at ACC, you served as the Senior Director of Regulatory Science Policy and worked extensively on risk assessment, science policy and rulemaking issues;
- As ACC’s leading expert for ensuring sound implementation of risk assessment practices in the Frank R. Lautenberg Chemical Safety for the 21st Century Act, you have valuable expertise to share as the Agency considers how to implement this new statute;
- You have extensive prior expertise with the regulated industry’s perspective and are already familiar with (and may well have authored) ACC comments now under consideration. Because your prior knowledge is inherently part of your expertise, it is impractical to excise that knowledge from how you carry out your Agency duties;

- While you still participate in an ACC defined contribution plan, neither you nor your former employer continues to make contributions. Pursuant to federal ethics regulations, this type of employee benefit plan does not present any financial conflict of interest. *See* 5 C.F.R. § 2640.201(c);
- Your unique expertise, knowledge and prior experience will ensure that the Agency is able to consider all perspectives, including that of the regulated industry's major trade association;
- Although your type of appointment at EPA is not a political one, you currently serve in the only non-career position in the Office of Chemical Safety and Pollution Prevention. As such, you have a unique role in advising political staff, including the Administrator, and need to be able to be able to consider as many perspectives as you can; and
- Participation in rulemaking matters is integral to your position, so the Agency has a strong and compelling interest in ensuring that you are able to advise the Administrator, the Acting Assistant Administrator and career staff to the maximum extent possible.

Under the federal ethics regulations, you are permitted to participate in matters of general applicability (such as rulemaking) even if individual members of your former employer will be affected by that particular matter. Until now, you have recused yourself from participating personally and substantially in those comments to rulemaking that were offered by ACC. This impartiality determination confirms that you are permitted to participate in any discussions or consideration of comments submitted by ACC to rulemaking or other matters of general applicability. You may also attend meetings at which ACC is present or represented, but only if the following conditions are met: (a) the subject matter of the discussion is a particular matter of general applicability, (b) other interested non-federal entities are present besides only ACC, and (c) you are not the only Agency official at the meeting. This authorization will remain in effect for the remainder of your cooling off period. After April 29, 2018, you will no longer have a covered relationship with ACC under the impartiality standards and will no longer require this determination. I am attaching a recusal statement for you to sign and issue to your staff.

If you have any questions regarding this determination, or if a situation arises in which you need advice or clarification, please contact Justina Fugh at fugh.justina@epa.gov or (202) 564-1786.

Attachment

cc: Wendy Cleland-Hamnett, Acting Assistant Administrator
Justina Fugh, Senior Counsel for Ethics

To: Beck, Nancy[beck.nancy@epa.gov]
Cc: Cleland-Hamnett, Wendy[Cleland-Hamnett.Wendy@epa.gov]
From: Fugh, Justina
Sent: Thur 6/8/2017 10:14:25 PM
Subject: signed impartiality determination and draft recusal statement
[Impartiality determination final.pdf](#)
[draft recusal statement.docx](#)

Hi Nancy,

Attached please find the impartiality determination that Kevin Minoli signed earlier today. With this writing, the Designated Agency Ethics Official confirms that you are permitted to participate in matters of general applicability, including rulemaking, even if your former employer has an interest. In addition, he has determined that you may participate in specific comments that are offered by ACC in rulemaking and that you may attend certain meetings at which ACC is present (provided that the discussion is on a particular matter of general applicability and other interested non-federal entities are present as well as other EPA officials). The determination covers the remainder of your cooling off period (until April 29, 2018), when it will no longer be necessary. After your cooling off period expires, you may participate freely with ACC. If there is an ACC-related meeting that OCSPP believes you must attend between now and April 29, 2018, then Wendy may ask OGC/Ethics to consider that.

I have drafted a recusal statement that you should review and, if no changes, print out on OCSPP letterhead and then date and sign. Please send a pdf of the statement back to me for my files.

I hope that you are getting acclimated to EPA and have a great weekend.

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

To: Beck, Nancy[beck.nancy@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]
Cc: Bahadori, Tina[Bahadori.Tina@epa.gov]; Corona, Elizabeth[Corona.Elizabeth@epa.gov]; Griffio, Shannon[Griffio.Shannon@epa.gov]
From: Fugh, Justina
Sent: Fri 9/8/2017 10:38:10 PM
Subject: RE: Chemical Sectors

Hi Nancy and Liz,

I am so happy with both of you that you have correctly identified that the presence of your former employer, ACC, causes you ethics concerns. You are correct in that neither of you can meet with EPA staff to discuss ACC and its interest in or any participation with the agency's sectors concept. The fact that agency officials met with just ACC means that this proposed discussion falls within the scope of your recusals.

It may be possible for Agency officials to talk with you generally about the sectors team and their strategies for engaging outside entities, including but not limited to ACC. However, OGC/Ethics advises that those officials first consult with us to explain the parameters of your recusal. Shannon Griffio, copied here, is the contact person for recusals here in OGC/Ethics.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Thursday, September 07, 2017 4:15 PM
To: Corona, Elizabeth <Corona.Elizabeth@epa.gov>; Bahadori, Tina <Bahadori.Tina@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Chemical Sectors

Elizabeth,

I cant speak for others, but because I came from ACC, I would want to check with OGE to ensure these interactions are appropriate. As such, I've looped in Justina Fugh.

Once I have her ok, I'd be happy to engage with you to talk about the work we are doing in OCSPP and how this may be of interest to the chemicals sectors team.

Thanks Justina!

Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Corona, Elizabeth

Sent: Thursday, September 7, 2017 3:25 PM

To: Bahadori, Tina <Bahadori.Tina@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>;

Bowman, Liz <Bowman.Liz@epa.gov>

Subject: FW: Announcement

Hi again, Nancy, Liz, and Tina.

I wanted to follow up my previous email to let you know that the Sectors Team is officially off the ground and running! See below – Sectors Team paragraph. I am officially the chemical manufacturing contact for our team.

We had a great meeting yesterday with ACC to introduce them to the sectors concept. Our conversations focused largely on permit streamlining and regulatory reform. We didn't really touch on science during the meeting, although I'm sure it will come up in future meetings.

ACC spoke very highly of the chemical sector lead from the previous iteration of the Sector Strategies program. They also indicated that, for the most part, they have good working relationships within EPA.

I'd love to connect with you and your folks at some point in the near future to share more about what's happening with the sectors team and make sure we're taking a coordinated approach to engaging with outside folks. We're still in the very early stages of setting things up. We'd love to get your input early on so we can incorporate it into our plans before we get too far along.

I'm free Monday, Tuesday, and Wednesday next week between 1-3pm each day. Please let me know if you have a half hour during one of those slots for us to connect in person.

Elizabeth

--

Elizabeth Corona, PhD, MBA

Office of Policy | Immediate Office

U.S. Environmental Protection Agency

(Desk) 202-564-8356

From: Kime, Robin **On Behalf Of** Dravis, Samantha

Sent: Wednesday, September 06, 2017 8:17 PM

To: OP-Everyone <OPEveryone@epa.gov>

Subject: Announcement

Dear Colleagues,

For the past several months I've had the pleasure of learning about the many ways the Office of Policy (OP) contributes to the mission of the Environmental Protection Agency. The analysis and support we provide for the agency's most critical functions is of the utmost importance to me. As a cross-media and cross-agency office, I believe that the following changes to OP's organization will enhance our ability to advance Administrator Pruitt's priorities in line with EPA's mission to protect human health and the environment.

Office of Environmental Justice (OEJ): In order to better serve overburdened communities, OEJ will join the Office of Policy. OEJ will work in partnership with the Office of Sustainable Communities, which will be renamed the Office of Community Revitalization. It is important to both Administrator Pruitt and myself that the most underserved and overburdened communities have a meaningful say in environmental protection and regulation. EPA has, and will continue to consider and incorporate environmental justice concerns into our regulatory process and this move enhances our ability to achieve this core function. It will also enable EPA's EJ program to maximize its ability to support meaningful engagement and public participation across the agency and lead federal level coordination to consider overburdened community needs and the application of federal resources to meet those needs. Moving OEJ to OP allows OECA, where OEJ was previously located, to focus on its mission of enforcement and compliance assurance.

Office of Federal Activities (OFA): OFA will join the Office of Policy where it will continue to carry out its vital responsibilities under the National Environmental Policy Act (NEPA). Also within OFA will be a Permitting Policy Division to build on the successful streamlining efforts in the NEPA program. Together, these organizations will focus on two of the Administration's top priorities: expediting federal infrastructure projects and streamlining permitting processes. This move will reform the agency's permitting and NEPA roles that will streamline the entire environmental review process and reduce subjectivity, providing our stakeholders with more clarity and certainty on their projects; ensure staff are able to quickly elevate high visibility issues to the Administrator for resolution; coordinate with the permitting AAs which will allow the agency to drive solutions to expedite the entire environmental review process, as directed by the President under Executive Order 13766, under one central office; and continue the progress that has already been made to strengthen the NEPA program and our partnerships with our sister federal agencies. OFA staff who work on hazardous waste transport issues will move to the Office of Land and Emergency Management, where complementary work resides.

Sectors Team: I have established a Sectors Team within the Office of Policy's Immediate Office to work with staff across OP and the agency. The Sectors Team will develop strategies that better protect human health and the environment by engaging with partners at all levels to ensure the agency puts forth sensible regulations that encourage economic growth. This team will coordinate with stakeholders to better understand their needs and challenges so as to improve environmental performance and inform smarter and more predictable rulemaking. This work will

build upon our experience with the Sector Strategies Program as well as our ongoing work in regulatory and permitting reform.

Operations Office: Over the course of the last year, the Operations Team in the OP Immediate Office started efforts to streamline and improve our administrative and operational activities. To further these efforts, I have established an Operations Office, through which we will consolidate our operations and administrative support functions, leading to increased efficiency and enhanced processes.

Office of Strategic Environmental Management: To fully staff OP's priorities, including the new functions noted above, many OSEM staff will be reassigned to OFA, ORPM, NCEE, and other areas where additional staffing is critical to meeting OP's core mission and the Administration's goals. I appreciate the unique skills and leadership OSEM has brought to numerous cross-cutting EPA priorities over the years and believe that OP's new organizational structure will allow us to better harness their talents. The team will concentrate on streamlining the agency's operations, especially in programmatic areas such as permitting.

The new responsibilities outlined here are a testament to OP's valued expertise and its many past successes. I am excited about the new opportunities for OP, and how we can help the agency achieve its mission of protecting human health and the environment more efficiently and effectively for the American people.

Samantha

To: Beck, Nancy[beck.nancy@epa.gov]
From: Fugh, Justina
Sent: Fri 7/21/2017 3:28:56 PM
Subject: RE: Non Profit activities

Nancy,

And this is why you're a favorite client: you listen and want to know more! I'm in the office all day today and next week, so just ask your staff assistant to give me a call so we can find 15 minutes.

Best,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Thursday, July 20, 2017 8:09 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Non Profit activities

Oye Vey! How can I possibly be a favorite client when I have screwed this up so badly!

Thanks for updating the 278 for me. I will find out when I started in both positions. I really don't think I have a fiduciary role in either, but perhaps I don't understand what that means. If its easiest I can simply remove myself from both positions. If I did remain on the board of EBTC, in a non-fiduciary role, it sounds like my participation would have to be on my own behalf and not as EPA at all, is that correct? Andy Rooney clearly represents NIEHS when he is at meetings, but it sounds like you are suggesting a different role for me.

I'm thinking it may be easiest to just drop both boards. Perhaps we can chat about this?

Thanks!
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina

Sent: Thursday, July 20, 2017 11:01 AM

To: Beck, Nancy <Beck.Nancy@epa.gov>

Subject: RE: Non Profit activities

Hi Nancy,

I was on vacation all last week and am now slogging through emails. My “office husband” is retiring next week, and his party is this week, so I’m completely overwhelmed. I am SO SORRY to be tardy in responding to your note as you are one of my new favorite clients!

1) I am on the board of trustees of the Evidence Based Toxicology Collaboration. <http://www.ebtox.org/about-us/>. EBTC was formally founded in 2011 at Johns Hopkins Bloomberg School of Public Health with the vision to improve the public health outcomes and reduce human impact on the environment by bringing evidence-based approaches to safety sciences. Our mission: Bring together the international toxicology community to facilitate use of evidence-based toxicology to inform regulatory, environmental and public health decisions.

a. Is it ok for me to continue to participate on this board? The work they do is very relevant to the work we are doing in OCSPP. There is someone from NIEHS on the board and I believe he participates fully (but perhaps does not formally vote or comment on budget). My participation could be done from my personal computer on my personal time if that makes it easier.

JUSTINA: Oh dear, you did not report that position on your 278! It's reportable as a "position held outside of government." I will have to amend your report and adjust your recusal statement. When did that position start (month and year)? With regard to your ethics obligations, EPA cannot allow any employee to serve in official capacity in a fiduciary position with any outside organization. We lack the statutory authority to do so. I will have to check with NIEHS about Dr. Andrew Rooney and whether he serves in his official capacity or not. If he doesn't, then you may continue to serve in your personal capacity, but you will have a financial conflict of interest with Johns Hopkins (because, under the financial conflict of interest statute, the interests of any organization that you serve in a fiduciary role are imputed to you). That's why I will have to adjust your recusal statement too. You may add your EPA position to your bio, but you cannot represent EPA and you can't allow your EPA position to have any undue influence (meaning that it can't be the only thing you list).

2) I am a trustee of the Toxicology Education Foundation:

<http://toxedfoundation.org/about/#mission>. The Toxicology Education Foundation (TEF) is a non-profit charitable 501 (c)(3) foundation whose mission is to enhance public understanding of toxicology through access to objective, science-based information on the safety of chemicals and other agents encountered in daily life.

a. I am also chair of the marketing subcommittee—which I'm planning to step down from as I simply don't have time but would like to stay on as a trustee if I can. Currently someone from NIH participates as a Government Liaison, rather than as an official trustee. Is this a role I could switch to?

JUSTINA: Again, this role was not reported on your 278 and is not addressed in your recusal statement. As explained above, EPA cannot allow you to serve in your official capacity. I see from the website that Suzanne Fitzpatrick is listed as representing FDA and Philip Wexler is the government liaison. I infer that they are both serving in their official capacities (unlike EPA, NIH and FDA have statutory authority to allow employees to serve on outside boards in their official capacity). This means that you as a federal employee are barred by 18 USC 205 from representing the TEF back to those federal officials. If you want to serve in a fiduciary role in your personal capacity when there are federal employees serving in their official capacity, then you will be in violation of 18 USC 205. This result is desperately unfair and, I believe, an unexpected consequence of the representational conflict of interest statute. I have raised this issue with the Office of Government Ethics and with other federal officials, and we're completely gobsmacked about what to do about solving the problem. There is no waiver provision under the representational conflicts statutes.

I need to at least add this position to your 278 and your recusal statement, so tell me when you started (month and year). Then you need to think about whether you really want to continue to serve as a trustee. You can do so only in your personal capacity, but be mindful of the fact that, if you continue, you will technically be representing the interests of another (the board) back to the United States (the feds who serve in their official capacity). Quite frankly, many people (including ethics officials) simply ignore this problem.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Monday, July 17, 2017 12:28 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Fwd: Non Profit activities

Justina,

Any thought on this?

Thanks.

Nancy.

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
M: (b) (6)
Beck.Nancy@epa.gov

Begin forwarded message:

From: "Beck, Nancy" <Beck.Nancy@epa.gov>
Date: July 7, 2017 at 6:55:03 PM EDT
To: "Fugh, Justina" <Fugh.Justina@epa.gov>
Subject: Non Profit activities

Justina,

I wanted to check with you regarding my participation with two non-profits. Both are toxicology related and relevant for the work I'm doing at EPA.

1) I am on the board of trustees of the Evidence Based Toxicology Collaboration. <http://www.ebtox.org/about-us/>. EBTC was formally founded in 2011 at Johns Hopkins Bloomberg School of Public Health with the vision to improve the public health outcomes and reduce human impact on the environment by bringing evidence-based approaches to safety sciences. Our mission: Bring together the international toxicology community to facilitate use of evidence-based toxicology to inform regulatory, environmental and public health decisions.

a. Is it ok for me to continue to participate on this board? The work they do is very relevant to the work we are doing in OCSPP. There is someone from NIEHS on the board and I believe he participates fully (but perhaps does not formally vote or comment on budget). My participation could be done from my personal computer on my personal time if that makes it easier.

2) I am a trustee of the Toxicology Education Foundation: <http://toxedfoundation.org/about/#mission>. The Toxicology Education Foundation (TEF) is a non-profit charitable 501 (c)(3) foundation whose mission is to enhance public understanding of toxicology through access to objective, science-based information on the safety of chemicals and other agents encountered in daily life.

a. I am also chair of the marketing subcommittee—which I'm planning to step down

from as I simply don't have time but would like to stay on as a trustee if I can. Currently someone from NIH participates as a Government Liaison, rather than as an official trustee. Is this a role I could switch to?

Please let me know what other information you may need.

Thanks,
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator

Office of Chemical Safety and Pollution Prevention

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Beck, Nancy[beck.nancy@epa.gov]
Cc: Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Fugh, Justina
Sent: Fri 9/8/2017 7:06:41 PM
Subject: RE: Conversation with DOJ -- ACC involvement

We're all free from 2 to 2:30 on Thursday, 9/14. What's your room number, Nancy?

From: Beck, Nancy
Sent: Friday, September 08, 2017 2:00 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

Super. I love it when folks come this way!

A few window options:

1:45-2:30

3-4pm

Perhaps 30 minutes in one of those windows works for you both?

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Friday, September 8, 2017 1:24 PM

To: Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

Hi Nancy,
Any excuse for chatting with you sounds like a pleasure! Early next week is not great for me. How about sometime on Thursday? We will invite Shannon Griffo, who is Team Ethics' recusal maven, and we can come over to your office.

Enjoy the weather!
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Friday, September 08, 2017 1:10 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

Thanks Justina,

I support your strict rule about driving, so no worries here.

By this note, I would like to request OGC/Ethics consider issuing an impartiality determination. I recognize that we can't predict the outcome of this and now that we know ACC has intervened, I will consider myself recused from participating in this current litigation. Please keep me posted on the outcome the evaluation.

I should probably sit down with you to better understand what exactly this recusal means and

get some examples of what I can and cannot do. Please let me know when you have time.

Many thanks,
Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina

Sent: Friday, September 8, 2017 12:21 PM

To: Beck, Nancy <Beck.Nancy@epa.gov>

Subject: RE: Conversation with DOJ -- ACC involvement

Hi Nancy,

I was out of the office this morning to **Ex. 6 - Personal Privacy** and have a strict rule that I don't read emails or text while driving! Consequently, I didn't see your message until I got into the office. I did talk to Brian Grant, who explained that ACC, the entity with whom you have a covered relationship pursuant 5 CFR 2635.502(b)(iv), has filed a motion to intervene in a lawsuit. Although the court has not yet ruled on that motion, we are now on notice about ACC's intention. For ethics purposes, the lawsuit is a specific party matter and your recusal indicates that you will not participate in any such matter in which ACC is a party or represents a party unless you first seek approval from OGC/Ethics. The terms of your 6/9/17 recusal and the 6/8/17 impartiality determination do not extend to your participation in this lawsuit now that we know ACC plans to participate as a specific party. You are not permitted to participate in this litigation going forward, and cannot participate in the phone call later today.

You may ask OGC/Ethics to consider issuing an impartiality determination. We will

consider your request and apply the regulatory factors set forth at 5 CFR 2635.502(d): (1) the nature of the relationship involved; (2) the effect that resolution of the matter would have upon the financial interests of the person involved in the

relationship; (3) the nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in

the matter; (4) the sensitivity of the matter; (5) The difficulty of reassigning the matter to another employee; and (6) adjustments that may be made in

the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

To be clear, until such time as OGC/Ethics issues you any impartiality determination – and I am not yet indicating that we would – you cannot participate in this litigation.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy

Sent: Friday, September 08, 2017 7:35 AM

To: Grant, Brian <Grant.Brian@epa.gov>

Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>; Morris, Jeff <Morris.Jeff@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>

Subject: RE: Conversation with DOJ -- ACC involvement

Great—lets find a window. I think that after 11:30 I could generally make it work and move meetings around.

Regarding participation, I refer to OGE on that and am looping in Justina. ACC commented on the proposed rule and I was allowed to participate on the final rule so I'm not exactly sure how this is similar/different.

However, I would think that until they actually intervene, there should be no concern.

Thanks.

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Grant, Brian

Sent: Friday, September 8, 2017 7:32 AM

To: Beck, Nancy <Beck.Nancy@epa.gov>

Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>;

Morris, Jeff <Morris.Jeff@epa.gov>

Subject: Conversation with DOJ -- ACC involvement

Good morning, Nancy. The DOJ attorneys working on the prioritization and RE cases have approval to talk with you about consolidation and can do so this morning.

However, they have received notice that ACC plans to intervene in the case. Can you participate?

Brian Grant
Office of General Counsel
202-564-5503

To: Baptist, Erik[baptist.erik@epa.gov]
From: Minoli.Kevin@epa.gov
Sent: Fri 9/8/2017 5:22:46 PM
Subject: Re: Determination regarding Nancy Beck today

Thanks for forwarding.

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

> On Sep 8, 2017, at 12:31 PM, Baptist, Erik <baptist.erik@epa.gov> wrote:

>

> Kevin,

>

> Please see below (since we briefly discussed it at PTSLO this week).

>

> Erik Baptist

> Senior Deputy General Counsel

> Office of General Counsel

> U.S. Environmental Protection Agency

> 1200 Pennsylvania Ave., NW

> Washington, DC 20460

> (202) 564-1689

> baptist.erik@epa.gov

>

> From: Fugh, Justina

> Sent: Friday, September 8, 2017 12:25 PM

> To: Grant, Brian <Grant.Brian@epa.gov>; Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>; Morris, Jeff <Morris.Jeff@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>

> Cc: Beck, Nancy <Beck.Nancy@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>

> Subject: Determination regarding Nancy Beck today

>

> Hi there,

> Set forth below is the determination that I made earlier today about whether Dr. Nancy Beck may participate in discussions about a lawsuit in which we now know of ACC's intention to intervene. As you know, Dr. Beck is not a political appointee so is not subject to the terms of Executive Order 13,770, nor is she an attorney subject to state bar rules. As an Administratively Determined appointee, Dr. Beck is, however, subject to the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR Part 2635, and the impartiality standards regarding her former employer, ACC.

>

> At this time, Dr. Beck is recused from any participation in the lawsuit now that we know ACC intends to intervene.

> Justina

>

> Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

>

>

>

>

> From: Fugh, Justina

> Sent: Friday, September 08, 2017 12:21 PM
> To: Beck, Nancy <beck.nancy@epa.gov<mailto:beck.nancy@epa.gov>>
> Subject: RE: Conversation with DOJ -- ACC involvement
>
> Hi Nancy,
> I was out of the office this morning to **Ex. 6 - Personal Privacy** and have a strict rule that I don't read emails or text while driving! Consequently, I didn't see your message until I got into the office. I did talk to Brian Grant, who explained that ACC, the entity with whom you have a covered relationship pursuant 5 CFR 2635.502(b)(iv), has filed a motion to intervene in a lawsuit. Although the court has not yet ruled on that motion, we are now on notice about ACC's intention. For ethics purposes, the lawsuit is a specific party matter and your recusal indicates that you will not participate in any such matter in which ACC is a party or represents a party unless you first seek approval from OGC/Ethics. The terms of your 6/9/17 recusal and the 6/8/17 impartiality determination do not extend to your participation in this lawsuit now that we know ACC plans to participate as a specific party. You are not permitted to participate in this litigation going forward, and cannot participate in the phone call later today.
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> You may ask OGC/Ethics to consider issuing an impartiality determination. We will consider your request and apply the regulatory factors set forth at 5 CFR 2635.502(d): (1) the nature of the relationship involved; (2) the effect that resolution of the matter would have upon the financial interests of the person involved in the
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> the matter; (4) the sensitivity of the matter; (5) The difficulty of reassigning the matter to another employee; and (6) adjustments that may be made in
> the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.
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> To be clear, until such time as OGC/Ethics issues you any impartiality determination – and I am not yet indicating that we would – you cannot participate in this litigation.
> Justina
>
> Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772
>
>
>
> From: Beck, Nancy
> Sent: Friday, September 08, 2017 7:35 AM
> To: Grant, Brian <Grant.Brian@epa.gov<mailto:Grant.Brian@epa.gov>>
> Cc: Mclean, Kevin <Mclean.Kevin@epa.gov<mailto:Mclean.Kevin@epa.gov>>; Celeste, Laurel <celeste.laurel@epa.gov<mailto:celeste.laurel@epa.gov>>; Morris, Jeff <Morris.Jeff@epa.gov<mailto:Morris.Jeff@epa.gov>>; Baptist, Erik <baptist.erik@epa.gov<mailto:baptist.erik@epa.gov>>; Fugh, Justina <Fugh.Justina@epa.gov<mailto:Fugh.Justina@epa.gov>>; Wise, Louise <Wise.Louise@epa.gov<mailto:Wise.Louise@epa.gov>>
> Subject: RE: Conversation with DOJ -- ACC involvement
>
> Great—lets find a window. I think that after 11:30 I could generally make it work and move meetings around.
> Regarding participation, I refer to OGE on that and am looping in Justina. ACC commented on the proposed rule and I was allowed to participate on the final rule so I'm not exactly sure how this is similar/different.
> However, I would think that until they actually intervene, there should be no concern.
>
> Thanks.

>
>
> _____
> Nancy B. Beck, Ph.D., DABT
> Deputy Assistant Administrator, OCSPP
> P: 202-564-1273
> M: (b) (6)
> beck.nancy@epa.gov<mailto:beck.nancy@epa.gov>
>
> From: Grant, Brian
> Sent: Friday, September 8, 2017 7:32 AM
> To: Beck, Nancy <Beck.Nancy@epa.gov<mailto:Beck.Nancy@epa.gov>>
> Cc: Mclean, Kevin <Mclean.Kevin@epa.gov<mailto:Mclean.Kevin@epa.gov>>; Celeste, Laurel
> <celeste.laurel@epa.gov<mailto:celeste.laurel@epa.gov>>; Morris, Jeff
> <Morris.Jeff@epa.gov<mailto:Morris.Jeff@epa.gov>>
> Subject: Conversation with DOJ -- ACC involvement
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>
> Good morning, Nancy. The DOJ attorneys working on the prioritization and RE cases have approval to
> talk with you about consolidation and can do so this morning.
>
>
>
> However, they have received notice that ACC plans to intervene in the case. Can you participate?
>
>
> Brian Grant
> Office of General Counsel
> 202-564-5503
> <Recusal Statement Beck.pdf>
> <Impartiality determination final.pdf>

To: Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Fugh, Justina
Sent: Sun 10/15/2017 7:01:56 PM
Subject: RE: Q re a NYTimes story on Nancy Beck

Hi Kevin,

I think that **Ex. 5 - Deliberative Process** We have to remember that Nancy is bound by the *impartiality* standards, not the Trump pledge. So her obligation under the standards at 5 CFR 2635.502(b)(1)(iv) was to refrain from participating in any *specific party* matter that involved ACC. Rulemaking is NOT a specific party matter. So even without any impartiality determination, Nancy was ethically permitted to work on any rulemaking, even if ACC offered a comment. Arguably, she could even work on a comment offered by ACC because the subject matter – the rulemaking – does not itself trigger the impartiality provisions. We don't care if someone else advances that same argument because it's not the *argument* that is off limits to Nancy. What she could not do was to participate in any specific party matter with her former employer, which she did not do.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process In terms of the question posed by the reporter:

Here is my question. I am aware that Dr. Beck participated in meeting at EPA prior to June 8 in which ACC comments on the TSCA implementation were discussed. For example, at at June 1 2017 meeting with Environmental Working Group, the discussion related to the proposed inclusion of new definitions in the final rule--a position advocated by ACC--was discussed, as was ACC's advocacy of this change. Was this a violation of the ethics rules? Any comment on this?

... here is my suggested response:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Minoli, Kevin
Sent: Sunday, October 15, 2017 8:37 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Q re a NYTimes story on Nancy Beck

Hi Justina- The New York Times is doing a story for early next week on anti-back. A couple of the questions were ethics related and I wanted to run this one by you to see

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

They are looking for thoughts ASAP as it will run Monday or Tuesday. Thanks, Kevin

proposed rules.

19. Dr. Beck on June 8th was given an “impartiality determination” letter by Kevin S. Minoli. The memo specifically says: “Under the federal ethics regulations, you are permitted to participate in matters of general applicability (such as rulemaking) even if individual members of your former employer will be affected by that particular matter. Until now, you have recused yourself from participating personally and substantially in those comments to rulemaking that were offered by ACC. This impartiality determination confirms that you are permitted to participate in any discussions or consideration of comments submitted by ACC to rulemaking or other matters of general applicability. You may also attend meetings at which ACC is present or represented, but only if the following conditions are met: (a) the subject matter of the discussion is a particular matter of general applicability, (b) other interested non-federal entities are present besides only ACC, and (c) you are not the only Agency official at the meeting. This authorization will remain in effect for the remainder of your cooling off period.” Here is my question. I am aware that Dr. Beck participated in meeting at EPA prior to June 8 in which ACC comments on the TSCA implementation were discussed. For example, at at June 1 2017 meeting with Environmental Working Group, the discussion related to the proposed inclusion of new definitions in the final rule--a position advocated by ACC--was discussed, as was ACC’s advocacy of this change. Was this a violation of the ethics rules? Any comment on this?

Nancy’s response:

Ex. 5 - Deliberative Process

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Minoli, Kevin
Sent: Sun 10/15/2017 7:09:30 PM
Subject: Re: Q re a NYTimes story on Nancy Beck

And that's why you are the expert! Thanks so much.

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Oct 15, 2017, at 3:01 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Kevin,

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From: Minoli, Kevin
Sent: Sunday, October 15, 2017 8:37 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
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Nancy’s response:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Minoli, Kevin
Sent: Sun 10/15/2017 12:37:16 PM
Subject: Q re a NYTimes story on Nancy Beck

Hi Justina- The New York Times is doing a story for early next week on anti-back. A couple of the questions were ethics related and I wanted to run this one by you to see

Ex. 5 - Deliberative Process

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Nancy’s response:

Ex. 5 - Deliberative Process

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Grant, Brian
Sent: Fri 9/8/2017 4:39:52 PM
Subject: Re: Determination regarding Nancy Beck today

Thanks, Justina. I need to figure out who from OCSPP will participate in Nancy's stead in our 4:00 call today w DOJ. Can I work with Nancy on that? I.e., does she designate who will now be lead on this in her stead? Or do I need to work with someone else to figure that out (e.g Louise Wise, or the office director)? Thanks.

Brian Grant
Office of General Counsel
202-564-5503

From: Fugh, Justina
Sent: Friday, September 8, 2017 12:25 PM
To: Grant, Brian; Mclean, Kevin; Celeste, Laurel; Morris, Jeff; Baptist, Erik; Wise, Louise
Cc: Beck, Nancy; Griffo, Shannon
Subject: Determination regarding Nancy Beck today

Hi there,

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At this time, Dr. Beck is recused from any participation in the lawsuit now that we know ACC intends to intervene.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Friday, September 08, 2017 12:21 PM
To: Beck, Nancy <beck.nancy@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

Hi Nancy,

I was out of the office this morning to **Ex. 6 - Personal Privacy** and have a strict rule that I don't read emails or text while driving! Consequently, I didn't see your message until I got into the office. I did talk to Brian Grant, who explained that ACC, the entity with whom you have a covered relationship pursuant 5 CFR 2635.502(b)(iv), has filed a motion to intervene in a lawsuit. Although the court has not yet ruled on that motion, we are now on notice about ACC's intention. For ethics purposes, the lawsuit is a specific party matter and your recusal indicates that you will not participate in any such matter in which ACC is a party or represents a party unless you first seek approval from OGC/Ethics. The terms of your 6/9/17 recusal and the 6/8/17 impartiality determination do not extend to your participation in this lawsuit now that we know ACC plans to participate as a specific party. You are not permitted to participate in this litigation going forward, and cannot participate in the phone call later today.

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Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Friday, September 08, 2017 7:35 AM
To: Grant, Brian <Grant.Brian@epa.gov>
Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>; Morris, Jeff <Morris.Jeff@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

Great—lets find a window. I think that after 11:30 I could generally make it work and move meetings around.

Regarding participation, I refer to OGE on that and am looping in Justina. ACC commented on the proposed rule and I was allowed to participate on the final rule so I'm not exactly sure how this is similar/different.

However, I would think that until they actually intervene, there should be no concern.

Thanks.

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Grant, Brian
Sent: Friday, September 8, 2017 7:32 AM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>;
Morris, Jeff <Morris.Jeff@epa.gov>
Subject: Conversation with DOJ -- ACC involvement

Good morning, Nancy. The DOJ attorneys working on the prioritization and RE cases have approval to talk with you about consolidation and can do so this morning.

However, they have received notice that ACC plans to intervene in the case. Can you participate?

Brian Grant
Office of General Counsel
202-564-5503

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Mclean, Kevin
Sent: Fri 6/9/2017 7:53:14 PM
Subject: RE: UPDATE: signed recusal and revised impartiality determination

Thanks!

From: Fugh, Justina
Sent: Friday, June 09, 2017 3:52 PM
To: Mclean, Kevin <Mclean.Kevin@epa.gov>
Subject: UPDATE: signed recusal and revised impartiality determination

Hi Kevin,

Here is Nancy Beck's signed recusal statement. She made one adjustment that necessitated my changing the impartiality determination (she left ACC a week earlier than I thought). So here is the final impartiality determination and the final recusal statement.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Thursday, June 08, 2017 6:15 PM
To: Mclean, Kevin <Mclean.Kevin@epa.gov>
Subject: FW: signed impartiality determination and draft recusal statement

Just for your information.

From: Fugh, Justina
Sent: Thursday, June 08, 2017 6:14 PM
To: Beck, Nancy <beck.nancy@epa.gov>
Cc: Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>
Subject: signed impartiality determination and draft recusal statement

Hi Nancy,

Attached please find the impartiality determination that Kevin Minoli signed earlier today. With this writing, the Designated Agency Ethics Official confirms that you are permitted to participate in matters of general applicability, including rulemaking, even if your former employer has an interest. In addition, he has determined that you may participate in specific comments that are offered by ACC in rulemaking and that you may attend certain meetings at which ACC is present (provided that the discussion is on a particular matter of general applicability and other interested non-federal entities are present as well as other EPA officials). The determination covers the remainder of your cooling off period (until April 29, 2018), when it will no longer be necessary. After your cooling off period expires, you may participate freely with ACC. If there is an ACC-related meeting that OCSPP believes you must attend between now and April 29, 2018, then Wendy may ask OGC/Ethics to consider that.

I have drafted a recusal statement that you should review and, if no changes, print out on OCSPP letterhead and then date and sign. Please send a pdf of the statement back to me for my files.

I hope that you are getting acclimated to EPA and have a great weekend.

Cheers,
Justina

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North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

To: Mclean, Kevin[Mclean.Kevin@epa.gov]
From: Fugh, Justina
Sent: Fri 6/9/2017 7:52:29 PM
Subject: UPDATE: signed recusal and revised impartiality determination
[Recusal Statement Beck.pdf](#)
[Impartiality determination final.pdf](#)

Hi Kevin,

Here is Nancy Beck's signed recusal statement. She made one adjustment that necessitated my changing the impartiality determination (she left ACC a week earlier than I thought). So here is the final impartiality determination and the final recusal statement.

Justina

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North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
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From: Fugh, Justina
Sent: Thursday, June 08, 2017 6:15 PM
To: Mclean, Kevin <Mclean.Kevin@epa.gov>
Subject: FW: signed impartiality determination and draft recusal statement

Just for your information.

From: Fugh, Justina
Sent: Thursday, June 08, 2017 6:14 PM
To: Beck, Nancy <beck.nancy@epa.gov>
Cc: Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>
Subject: signed impartiality determination and draft recusal statement

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Justina

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North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

To: Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Fugh, Justina
Sent: Mon 10/2/2017 9:26:50 PM
Subject: FW: Request for info

Trying to find all of the info for that Nancy Beck impartiality determination.

From: Celeste, Laurel
Sent: Thursday, September 28, 2017 6:03 PM
To: Mclean, Kevin <Mclean.Kevin@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Request for info

So what I had sent you earlier was the consolidated case information. If you want what was originally filed:

Alliance of Nurses for Healthy Environments v. EPA, No. 17-1926 (4th Cir.)(Risk Evaluation Rule)

Alliance of Nurses for Healthy Environments v. EPA, No. 17-1927 (4th Cir.)(Prioritization Rule)

Environmental Defense Fund v. EPA, No. 17-2464 (2d Cir.) (Risk Evaluation Rule);

Environmental Defense Fund v. EPA, No. 17-2403 (2d Cir.) (Prioritization Rule);

Safer Chemicals Healthy Families v. EPA, No. 17-72259 (9th Cir.) (Risk Evaluation Rule);

Safer Chemicals Healthy Families v. EPA, No. 17-72260 (9th Cir.) (Prioritization Rule).

From: Celeste, Laurel
Sent: Thursday, September 28, 2017 12:24 PM
To: Mclean, Kevin <Mclean.Kevin@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Request for info

Sure:

Alliance of Nurses for Healthy Environments, et al v EPA, No. 17-1926, consolidated with 17-2040, 4th Cir.

Safer Chemicals Healthy Families et al v EPA, No 17-72260, 9th Cir

EDF v EPA, No 17-72501, 9th Cir

Justina—knock on the wall if this isn't what you need

From: Mclean, Kevin
Sent: Thursday, September 28, 2017 12:06 PM
To: Celeste, Laurel <celeste.laurel@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Request for info

Laurel—

Can you please send Justina the basic information on all the risk evaluation and prioritization cases—names, docket numbers, etc.

Thanks.

Kevin McLean

Associate General Counsel

Pesticides and Toxic Substances Law Office

Office of General Counsel

U.S. Environmental Protection Agency

(202) 564-5564

To: Grant, Brian[Grant.Brian@epa.gov]
From: Fugh, Justina
Sent: Fri 9/8/2017 4:50:43 PM
Subject: RE: Determination regarding Nancy Beck today

Her recusal statement does not include any indication of who should participate instead. By selecting someone to participate, she will be participating, so please don't ask her. Let me correspond with her to tell her how I want to proceed and then I'll let you know.

From: Grant, Brian
Sent: Friday, September 08, 2017 12:40 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Determination regarding Nancy Beck today

Thanks, Justina. I need to figure out who from OCSPP will participate in Nancy's stead in our 4:00 call today w DOJ. Can I work with Nancy on that? Ie, does she designate who will now be lead on this in her stead? Or do I need to work with someone else to figure that out (e,g Louise Wise, or the office director)? Thanks.

Brian Grant
Office of General Counsel
202-564-5503

From: Fugh, Justina
Sent: Friday, September 8, 2017 12:25 PM
To: Grant, Brian; Mclean, Kevin; Celeste, Laurel; Morris, Jeff; Baptist, Erik; Wise, Louise
Cc: Beck, Nancy; Griffo, Shannon
Subject: Determination regarding Nancy Beck today

Hi there,

Set forth below is the determination that I made earlier today about whether Dr. Nancy Beck may participate in discussions about a lawsuit in which we now know of ACC's intention to intervene. As you know, Dr. Beck is not a political appointee so is not subject to the terms of Executive Order 13,770, nor is she an attorney subject to state bar rules. As an Administratively Determined appointee, Dr. Beck is, however, subject to the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR Part

2635, and the impartiality standards regarding her former employer, ACC.

At this time, Dr. Beck is recused from any participation in the lawsuit now that we know ACC intends to intervene.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Friday, September 08, 2017 12:21 PM
To: Beck, Nancy <beck.nancy@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

Hi Nancy,

I was out of the office this morning to Ex. 6 - Personal Privacy and have a strict rule that I don't read emails or text while driving! Consequently, I didn't see your message until I got into the office. I did talk to Brian Grant, who explained that ACC, the entity with whom you have a covered relationship pursuant 5 CFR 2635.502(b)(iv), has filed a motion to intervene in a lawsuit. Although the court has not yet ruled on that motion, we are now on notice about ACC's intention. For ethics purposes, the lawsuit is a specific party matter and your recusal indicates that you will not participate in any such matter in which ACC is a party or represents a party unless you first seek approval from OGC/Ethics. The terms of your 6/9/17 recusal and the 6/8/17 impartiality determination do not extend to your participation in this lawsuit now that we know ACC plans to participate as a specific party. You are not permitted to participate in this litigation going forward, and cannot participate in the phone call later today.

You may ask OGC/Ethics to consider issuing an impartiality determination. We will consider your request and apply the regulatory factors set forth at 5 CFR 2635.502(d): (1) the nature of the relationship involved; (2) the effect that resolution of the matter

would have upon the financial interests of the person involved in the

relationship; (3) the nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in

the matter; (4) the sensitivity of the matter; (5) The difficulty of reassigning the matter to another employee; and (6) adjustments that may be made in

the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

To be clear, until such time as OGC/Ethics issues you any impartiality determination – and I am not yet indicating that we would – you cannot participate in this litigation.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy

Sent: Friday, September 08, 2017 7:35 AM

To: Grant, Brian <Grant.Brian@epa.gov>

Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>; Morris, Jeff <Morris.Jeff@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>

Subject: RE: Conversation with DOJ -- ACC involvement

Great—lets find a window. I think that after 11:30 I could generally make it work and move meetings around.

Regarding participation, I refer to OGE on that and am looping in Justina. ACC commented on the proposed rule and I was allowed to participate on the final rule so I'm not exactly sure how this is similar/different.

However, I would think that until they actually intervene, there should be no concern.

Thanks.

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Grant, Brian

Sent: Friday, September 8, 2017 7:32 AM

To: Beck, Nancy <Beck.Nancy@epa.gov>

Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>;
Morris, Jeff <Morris.Jeff@epa.gov>

Subject: Conversation with DOJ -- ACC involvement

Good morning, Nancy. The DOJ attorneys working on the prioritization and RE cases have approval to talk with you about consolidation and can do so this morning.

However, they have received notice that ACC plans to intervene in the case. Can you participate?

Brian Grant
Office of General Counsel
202-564-5503

To: Minoli, Kevin[Minoli.Kevin@epa.gov]
Sent: Fri 9/29/2017 2:43:54 PM
Subject: FW: Question for you

David Fotouhi

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

From: Beck, Nancy
Sent: Friday, September 29, 2017 10:37 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Question for you

David,

I'm supposed to give a talk next Friday at the National Academies board meeting about our TSCA implementation. This is a closed door meeting however one of the board members is Bob Sussman, who is lead counsel for SCHF which is suing us on the TSCA rules. I'm wondering what this means for my ability to give a general talk about the rules and our TSCA implementation. Similarly, in 2 weeks I am supposed to give a similar update to the local Society of Toxicology chapter on TSCA, where participants/attendees may likely include some from the groups that are suing us. If it wasn't me giving these talks, it would be Jeff Morris or someone from his shop.

Are there constraints on what we (OCSPP) can/cannot talk about publicly for the next 6 months or so while these rules are being litigated? I cant imagine a scenario where we are silenced in

talking about our implementation publicly but if there are certain areas we need to stay away from please let me know. I am still recused from working on the litigation but I'm not sure that impacts my ability, or OPPTs ability to talk generally about our TSCA implementation.

If you want to talk about this, I can be reached on my cell all day (number below).

Thanks.

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

To: Beck, NancyB[beck.nancyb@epa.gov]
Cc: Fort, Daniel[Fort.Daniel@epa.gov]
From: Fugh, Justina
Sent: Sat 4/29/2017 2:43:51 AM
Subject: Your ethics obligations for your EPA position
[Distinctions between Reporting Transactions on the OGE 278 - January 201....docx](#)
[Hatch Act chart February 2017.docx](#)
[P45 Executive Order.pdf](#)

TO: Nancy Beck

Hi there --

I understand that you will be joining EPA on Monday, May 1 in an Administratively Determined position as Deputy Assistant Administrator for Toxics in OCSPP. Congratulations! In this position, you will be required by the Ethics in Government Act of 1978 to file the Office of Government Ethics Form 278, Public Financial Disclosure Report. My office reviews your information to assess any possible ethics implications. You can start filling out the report now, but it is officially due no later than 30 days after you start at EPA. Until you complete the report, we won't have a handle on your possible conflicts issues and can't write a recusal statement for you, which may affect what you work on initially. I should note that your appointment may be converted at a later date to a political appointment, which means that, pursuant to Executive Order 13,770, you will have to sign the Trump ethics pledge.

EPA uses an entirely electronic filing system (called INTEGRITY.gov or INTEGRITY), so you will file the form (called the OGE 278e) electronically. You are required by law to complete the form, so please don't disregard this requirement; in fact, failure to complete the form timely can result in a \$200 late filing fee, and may also result in criminal or civil penalties.

There are several important things to know about the OGE-278e: (1) it is a public form (which means that anyone can ask for a copy of your form, but Congress repealed the requirement for public posting to the internet); (2) you have to fill it out every year you are in this position; (3) when you leave the position, you will have to file a termination report; and (4) you will be subject to a late filing fee of \$200 for not filing your report timely, and there are also civil and criminal penalties for failure to file at all or for inaccurate reporting.

THE FINANCIAL DISCLOSURE REPORT, OGE-278e

On Monday, Dan Fort (copied here, one of my OGC/Ethics colleagues) will use your personal email address to create an account for you in INTEGRITY, which is the electronic filing system operated and secured by the Office of Government Ethics (OGE). Your user ID will be your EPA email address. You will be assigned a "new entrant" report with the EPA's business

address already included. Do not enter your personal home address in that place. Your filer category is "other." For help in INTEGRITY, check out the information on the OGC/Ethics website at <http://intranet.epa.gov/ogc/Integrity/Landingpage.html> .

Once you receive the email from INTEGRITY.gov that will provide you with specific instructions, log into the federal government's max.gov site, the gateway to INTEGRITY. If you don't receive your account notification within three days, then please check your clutter box for messages from INTEGRITY.gov, or contact Dan Fort so that we can follow up.

DEADLINE FOR SUBMITTING THE FORM

INTEGRITY will give you 30 days to complete the form. If you need additional time, you must contact me directly before your due date. There is a limit to how much additional time we can give you before late fees kick in, so please pay attention to this requirement.

HELPFUL HINTS FOR FILLING OUT THE FORM

- This is a wretched and exacting form.
- You will get three different places to report assets: filer's employment-related assets and income, spouse's employment related assets and income , and other assets and income. So you are reporting the assets for yourself, your spouse and your dependent children. We don't really care where you report your assets, just that you do report them all someplace.
- You must include any investment asset that is worth more than \$1000. Include any income from any source that exceeded \$200 during the reporting period (including outside jobs or hobbies, rental income). Include any cash/savings accounts that have more than \$5000.
- Enter each asset separately. Don't lump items together on one line. Be sure to provide the valuation of the asset AND the amount of the income. For assets that aren't mutual funds, you also have to report the type of income (e.g., dividends, cap gains).
- For 401(k) or IRA plans, provide the name of each of the underlying assets. Don't just write "Vanguard IRA" or "mutual fund." You must specify each asset separately and give the valuation and amount of accrued investment income. The definition of "investment income" is NOT tied to what's taxable! You must report accrued income, even if tax deferred or exempt, that you got in the asset over the reporting period (which is last calendar year + this calendar year, up to the date of filing). Look at 1099 forms for the accrued income from investments or review your statements.

- Do not report your federal salary, your spouse's federal salary, or Thrift Savings Plan
- But if you (not your spouse) have any earned income (e.g., outside job, paid pension), you have to report the actual amount of that income.
- But if your spouse works outside of federal service, then include your spouse's employer but not the amount of your spouse's salary. If you are not legally married, do not report your significant other's employer.
- Don't forget to include any life insurance policies (whole life or variable life) as well as the underlying investments, but do not report term life insurance.
- If you have nothing to report in a section, be sure to click the "nothing to report" button

OTHER ETHICS REQUIREMENTS FOR YOU

STOCK ACT

Because you are required to file the form, you are also now subject to the STOCK Act. You are required to report any purchase, sale or exchange of stocks, bonds, commodities futures or other forms of securities when the amount of the transaction exceeds \$1000. Use INTEGRITY to disclose reportable transactions within 30 days of receiving notification of the transaction, but not later than 45 days after the transaction occurs. You will have to report transactions that occur within brokerage accounts, managed accounts, or other investment vehicles that you own or jointly own with your spouse or another person, as well as transactions of your spouse or dependent children. For a comprehensive review of reportable transactions, see EPA Ethics Advisory 2012-03 at http://intranet.epa.gov/ogc/ethics/Ethics_Advisory_2012-03.pdf and our revised chart, also attached.

HATCH ACT

You will be "lesser restricted" under the Hatch Act. Please familiarize yourself with the Hatch Act as it affects you, and from the EPA intranet (inside the firewall), can gain a good overview by reviewing our online training course at <http://intranet.epa.gov/ogcrmo01/ethics.htm> or by referring to our attached handy chart that reminds you of your restrictions.

-

CONTACTS

Dan Fort, Jeanne Duross or I will be happy to help you with your 278e form. We can be

reached at ethics@epa.gov or individually at:

Jeanne Duross, Ethics Attorney, duross.jeanne@epa.gov or 202-564-6595

Daniel Fort, Ethics Officer, fort.daniel@epa.gov or 202-564-2200

Justina Fugh, Senior Counsel for Ethics, fugh.justina@epa.gov or 202-564-1786

Cheers,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

June 9, 2017

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator

A handwritten signature in cursive script, reading "Nancy Beck".

TO: Wendy Cleland-Hamnett
Acting Assistant Administrator

Because I am in an Administratively Determined position, I have been advised by the Office of General Counsel/Ethics (OGC/Ethics) that I am not subject to Executive Order 13770 and therefore not required to sign the Trump ethics pledge. But as an executive branch employee, I have always understood that I am subject to the conflict of interest statutes codified at Title 18 of the United States Code and the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635. Pursuant to the federal impartiality standards, I have understood that I have a "covered relationship" with my former employer, the American Chemistry Council (ACC), and have recused myself from participating personally and substantially in any particular matter involving specific parties in which ACC is a party or represents a party. I was advised by OGC/Ethics that my recusal period commenced the day that I left ACC and would remain in effect for one year unless I was authorized by the Office of General Counsel/Ethics (OGC/Ethics) to participate pursuant to 5 C.F.R. 2635.502(d).

I have sought and obtained confirmation from OGC/Ethics that I can participate in particular matters of general applicability, such as rulemaking, even if my former employer has an interest, and that I can participate personally and substantially in any discussions or consideration of comments that ACC submitted with regard to rulemaking or other matters of general applicability. *See* attached. I am also now authorized to attend meetings at which ACC is present or represented, provided that the subject matter of the meeting is a matter of general applicability, if other interested non-federal parties are present, and other EPA personnel attend. For the remainder of my cooling off period, until April 21, 2018, however, I understand that I cannot otherwise participate in any specific party matter involving ACC unless I first seek approval from OGC/Ethics.

I am issuing this recusal statement to ensure that our staff assist me by directing any ACC specific party matter to you instead of me, without my knowledge or involvement, until after April 21, 2018. In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests or in my personal or business relationships.

cc: OCSPP senior staff
Justina Fugh, Senior Counsel for Ethics



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

JUN - 8 2017

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Participation in Specific Party Matters Involving Your Former Employer, the American Chemistry Council

FROM: Kevin S. Minoli *KSM*
Designated Agency Ethics Official and
Acting General Counsel

TO: Nancy Beck, Ph.D., DABT
Deputy Assistant Administrator
Office of Chemical Safety and Pollution Prevention

Effective April 30, 2017, you joined the United States Environmental Protection Agency (EPA) in an Administratively Determined (AD) position as the Deputy Assistant Administrator for the Office of Chemical Safety and Pollution Prevention (OCSPP). In this position, you are responsible for advising the Acting Assistant Administrator in matters pertaining to chemical safety, pollution prevention, pesticides and toxic substances, including implementation of rulemaking under applicable federal statutes. Previous to your selection, you served as the Senior Director of Regulatory Science Policy at the American Chemistry Council (ACC), which represents companies that are directly regulated by EPA. You seek permission to participate in specific party matters involving your former employer.

In providing my advice, I have taken into consideration the fact that, as an AD appointment, you are not required to sign the Trump ethics pledge because this type of appointment falls outside the definition of "appointee" set forth at Executive Order 13,770 at Section 2(b).¹ You do not have any financial conflict of interest with your former employer, so the ethics rules to be applied to you are set forth in the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635, specifically Subpart E, "Impartiality in Performing Official Duty." Pursuant to 5 C.F.R. § 2635.502(b)(1)(iv), you have a "covered relationship" with ACC as your former employer. For one year from the time you resigned from ACC, absent an impartiality determination from me, you cannot participate in any specific party matter in which ACC is a party or represents a party if that matter is likely to have a direct and predictable financial effect upon the ACC or if the circumstances would cause a reasonable

¹ See Office of Government Ethics advisories entitled "Guidance on Executive Order 13770," LA-17-03 (3/20/27) and Executive Order 13770," LA-17-02 (2/6/17), which apply the following OGE advisories from the last administration in full: "Who Must Sign the Ethics Pledge?" DO-09-010 (3/16/09); and "Signing the Ethics Pledge," DO-09-005 (2/10/09).

person with knowledge of the relevant facts to question your impartiality. *See* 5 C.F.R. § 2635.502(a).

It is important to note that the ethical restriction applies only to particular matters involving specific parties, not to particular matters of general applicability. Generally speaking, a “specific party” matter is a “proceeding affecting the legal rights of parties, or an isolatable transaction or related set of transactions between identified parties.” *See* 5 C.F.R. § 2640.102(l). Rulemaking is not usually a “specific party” matter but rather a matter of general applicability, which involves “deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons.” *See* 5 C.F.R. § 2640.103(a)(1). Therefore, under the ethics regulations, you may participate in rulemaking, even if that rulemaking may affect the members of your former employer. While you can ethically work on rulemaking in general, you have been advised -- and understand -- that you cannot participate in any meetings, discussions or decisions that relate to any individual ACC comment nor attend any meeting at which ACC is present.

As provided by the ethics regulations, however, federal ethics officials can nonetheless permit employees to participate in matters that might raise impartiality concerns when the interest of the federal government in that employee’s participation outweighs concern over the questioning of the “integrity of the agency’s programs and operations.” *See* 5 C.F.R. § 2635.502(d). The factors that we can take into consideration are:

- (1) the nature of the relationship involved;
- (2) the effect that resolution of the matter will have upon the financial interest of the person affected in the relationship;
- (3) the nature and importance of the employee’s role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter;
- (4) the sensitivity of the matter;
- (5) the difficulty of reassigning the matter to another employee; and
- (6) adjustments that may be made in the employee’s duties that would reduce or eliminate the likelihood that a reasonable person would question the employee’s impartiality.

In reviewing these factors, I have decided to allow you to participate fully in matters of general applicability, including rulemaking, including consideration of any comments that were made by ACC. In making this determination, I have taken the following factors into consideration:

- While at ACC, you served as the Senior Director of Regulatory Science Policy and worked extensively on risk assessment, science policy and rulemaking issues;
- As ACC’s leading expert for ensuring sound implementation of risk assessment practices in the Frank R. Lautenberg Chemical Safety for the 21st Century Act, you have valuable expertise to share as the Agency considers how to implement this new statute;
- You have extensive prior expertise with the regulated industry’s perspective and are already familiar with (and may well have authored) ACC comments now under consideration. Because your prior knowledge is inherently part of your expertise, it is impractical to excise that knowledge from how you carry out your Agency duties;

- While you still participate in an ACC defined contribution plan, neither you nor your former employer continues to make contributions. Pursuant to federal ethics regulations, this type of employee benefit plan does not present any financial conflict of interest. *See* 5 C.F.R. § 2640.201(c);
- Your unique expertise, knowledge and prior experience will ensure that the Agency is able to consider all perspectives, including that of the regulated industry's major trade association;
- Although your type of appointment at EPA is not a political one, you currently serve in the only non-career position in the Office of Chemical Safety and Pollution Prevention. As such, you have a unique role in advising political staff, including the Administrator, and need to be able to be able to consider as many perspectives as you can; and
- Participation in rulemaking matters is integral to your position, so the Agency has a strong and compelling interest in ensuring that you are able to advise the Administrator, the Acting Assistant Administrator and career staff to the maximum extent possible.

Under the federal ethics regulations, you are permitted to participate in matters of general applicability (such as rulemaking) even if individual members of your former employer will be affected by that particular matter. Until now, you have recused yourself from participating personally and substantially in those comments to rulemaking that were offered by ACC. This impartiality determination confirms that you are permitted to participate in any discussions or consideration of comments submitted by ACC to rulemaking or other matters of general applicability. You may also attend meetings at which ACC is present or represented, but only if the following conditions are met: (a) the subject matter of the discussion is a particular matter of general applicability, (b) other interested non-federal entities are present besides only ACC, and (c) you are not the only Agency official at the meeting. This authorization will remain in effect for the remainder of your cooling off period. After April 21, 2018, you will no longer have a covered relationship with ACC under the impartiality standards and will no longer require this determination. I am attaching a recusal statement for you to sign and issue to your staff.

If you have any questions regarding this determination, or if a situation arises in which you need advice or clarification, please contact Justina Fugh at fugh.justina@epa.gov or (202) 564-1786.

Attachment

cc: Wendy Cleland-Hamnett, Acting Assistant Administrator
Justina Fugh, Senior Counsel for Ethics

From: Morales, Oscar
Sent: Monday, July 10, 2017 8:57 AM
To: Sherlock, Scott <Sherlock.Scott@epa.gov>
Subject: FW: signed recusal and revised impartiality determination

First set

Oscar Morales

Associate Assistant Administrator

US EPA/ OCSPP

P: 202-564-9673

M: 202-821-9899

Morales.Oscar@epa.gov

From: Fugh, Justina
Sent: Thursday, June 15, 2017 11:43 AM
To: Morales, Oscar <Morales.Oscar@epa.gov>
Subject: signed recusal and revised impartiality determination

here is the final impartiality determination and the final recusal statement.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308

North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

JUN - 8 2017

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Participation in Specific Party Matters Involving Your Former Employer, the American Chemistry Council

FROM: Kevin S. Minoli *KSM*
Designated Agency Ethics Official and
Acting General Counsel

TO: Nancy Beck, Ph.D., DABT
Deputy Assistant Administrator
Office of Chemical Safety and Pollution Prevention

Effective April 30, 2017, you joined the United States Environmental Protection Agency (EPA) in an Administratively Determined (AD) position as the Deputy Assistant Administrator for the Office of Chemical Safety and Pollution Prevention (OCSPP). In this position, you are responsible for advising the Acting Assistant Administrator in matters pertaining to chemical safety, pollution prevention, pesticides and toxic substances, including implementation of rulemaking under applicable federal statutes. Previous to your selection, you served as the Senior Director of Regulatory Science Policy at the American Chemistry Council (ACC), which represents companies that are directly regulated by EPA. You seek permission to participate in specific party matters involving your former employer.

In providing my advice, I have taken into consideration the fact that, as an AD appointment, you are not required to sign the Trump ethics pledge because this type of appointment falls outside the definition of "appointee" set forth at Executive Order 13,770 at Section 2(b).¹ You do not have any financial conflict of interest with your former employer, so the ethics rules to be applied to you are set forth in the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635, specifically Subpart E, "Impartiality in Performing Official Duty." Pursuant to 5 C.F.R. § 2635.502(b)(1)(iv), you have a "covered relationship" with ACC as your former employer. For one year from the time you resigned from ACC, absent an impartiality determination from me, you cannot participate in any specific party matter in which ACC is a party or represents a party if that matter is likely to have a direct and predictable financial effect upon the ACC or if the circumstances would cause a reasonable

¹ See Office of Government Ethics advisories entitled "Guidance on Executive Order 13770," LA-17-03 (3/20/27) and Executive Order 13770," LA-17-02 (2/6/17), which apply the following OGE advisories from the last administration in full: "Who Must Sign the Ethics Pledge?" DO-09-010 (3/16/09); and "Signing the Ethics Pledge," DO-09-005 (2/10/09).

person with knowledge of the relevant facts to question your impartiality. *See* 5 C.F.R. § 2635.502(a).

It is important to note that the ethical restriction applies only to particular matters involving specific parties, not to particular matters of general applicability. Generally speaking, a “specific party” matter is a “proceeding affecting the legal rights of parties, or an isolatable transaction or related set of transactions between identified parties.” *See* 5 C.F.R. § 2640.102(l). Rulemaking is not usually a “specific party” matter but rather a matter of general applicability, which involves “deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons.” *See* 5 C.F.R. § 2640.103(a)(1). Therefore, under the ethics regulations, you may participate in rulemaking, even if that rulemaking may affect the members of your former employer. While you can ethically work on rulemaking in general, you have been advised -- and understand -- that you cannot participate in any meetings, discussions or decisions that relate to any individual ACC comment nor attend any meeting at which ACC is present.

As provided by the ethics regulations, however, federal ethics officials can nonetheless permit employees to participate in matters that might raise impartiality concerns when the interest of the federal government in that employee’s participation outweighs concern over the questioning of the “integrity of the agency’s programs and operations.” *See* 5 C.F.R. § 2635.502(d). The factors that we can take into consideration are:

- (1) the nature of the relationship involved;
- (2) the effect that resolution of the matter will have upon the financial interest of the person affected in the relationship;
- (3) the nature and importance of the employee’s role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter;
- (4) the sensitivity of the matter;
- (5) the difficulty of reassigning the matter to another employee; and
- (6) adjustments that may be made in the employee’s duties that would reduce or eliminate the likelihood that a reasonable person would question the employee’s impartiality.

In reviewing these factors, I have decided to allow you to participate fully in matters of general applicability, including rulemaking, including consideration of any comments that were made by ACC. In making this determination, I have taken the following factors into consideration:

- While at ACC, you served as the Senior Director of Regulatory Science Policy and worked extensively on risk assessment, science policy and rulemaking issues;
- As ACC’s leading expert for ensuring sound implementation of risk assessment practices in the Frank R. Lautenberg Chemical Safety for the 21st Century Act, you have valuable expertise to share as the Agency considers how to implement this new statute;
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If you have any questions regarding this determination, or if a situation arises in which you need advice or clarification, please contact Justina Fugh at fugh.justina@epa.gov or (202) 564-1786.

Attachment

cc: Wendy Cleland-Hamnett, Acting Assistant Administrator
Justina Fugh, Senior Counsel for Ethics

To: Beck, Nancy[Beck.Nancy@epa.gov]
Cc: Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Fugh, Justina
Sent: Wed 10/11/2017 5:55:16 PM
Subject: draft for your review
Nancy Beck draft impartiality determination for review.docx

Hey Nancy,

Here is the draft impartiality determination to allow you to participate in the litigation in which ACC has intervened. Both you and Kevin Minoli are out of the office until Friday, so Shannon and I thought we would send this draft to you for a quick review. We need to be sure that we've correctly explained your prior role with respect to the litigation, for example. Anyway, look this over and, if you have any changes or comments, you and I can talk about them when you return. Once we have your comments, we can put the final in front of Kevin to sign.

Safe travels!
justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

To: Fugh, Justina[Fugh.Justina@epa.gov]; Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Corona, Elizabeth
Sent: Tue 9/12/2017 1:56:59 PM
Subject: Re: Chemical Sectors

Ok. Thanks. Can I ask a Nancy who in her office she'd like to be my primary point of conflict?

--

Elizabeth Corona, Ph.D., M.B.A.
EPA Office of Policy
(Desk) 202-564-8356

From: Fugh, Justina
Sent: Tuesday, September 12, 2017 9:33:54 AM
To: Corona, Elizabeth; Griffo, Shannon
Subject: RE: Chemical Sectors

Shannon is in a FOIA conference all this week, so next week would be better to talk to us. But if you avoid talking to Nancy altogether, then you don't need to talk to us in OGC/Ethics at all.

Justina

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North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Corona, Elizabeth
Sent: Monday, September 11, 2017 7:58 AM
To: Griffo, Shannon <Griffo.Shannon@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Chemical Sectors

Hi Justina and Shannon – Please let me know when you are available to meet with me to discuss the most appropriate way for our team to engage OCSPP. Our main interest is ensuring that our team is fully aware of what is going on in their office as it relates to chemicals. We don't need to talk about ACC at all, and I'm happy to work through someone else if it's not appropriate for us

to work through Nancy. Thanks, Elizabeth

--

Elizabeth Corona, PhD, MBA

Office of Policy | Immediate Office

U.S. Environmental Protection Agency

(Desk) 202-564-8356

From: Corona, Elizabeth

Sent: Monday, September 11, 2017 7:54 AM

To: Bowman, Liz <Bowman.Liz@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>; Beck, Nancy <beck.nancy@epa.gov>

Cc: Bahadori, Tina <Bahadori.Tina@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>

Subject: RE: Chemical Sectors

Thanks for the clarification, Justina.

Given the sensitivity, our team will stick strictly to discussing agency work related to chemicals. We will not discuss ACC.

I'll connect with Justina and Shannon first before we find a time for us to meet with Nancy and/or Liz.

--

Elizabeth Corona, PhD, MBA

Office of Policy | Immediate Office

U.S. Environmental Protection Agency

(Desk) 202-564-8356

From: Bowman, Liz
Sent: Friday, September 08, 2017 7:41 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Bahadori, Tina <Bahadori.Tina@epa.gov>; Corona, Elizabeth <Corona.Elizabeth@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Chemical Sectors

Thanks, Justina. Does this mean that Nancy and I get gold ethics stars for the day ☺? And/or at least a piece of delicious chocolate?

From: Fugh, Justina
Sent: Friday, September 8, 2017 6:38 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Bahadori, Tina <Bahadori.Tina@epa.gov>; Corona, Elizabeth <Corona.Elizabeth@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Chemical Sectors

Hi Nancy and Liz,

I am so happy with both of you that you have correctly identified that the presence of your former employer, ACC, causes you ethics concerns. You are correct in that neither of you can meet with EPA staff to discuss ACC and its interest in or any participation with the agency's sectors concept. The fact that agency officials met with just ACC means that this proposed discussion falls within the scope of your recusals.

It may be possible for Agency officials to talk with you generally about the sectors team and their strategies for engaging outside entities, including but not limited to ACC. However, OGC/Ethics advises that those officials first consult with us to explain the parameters of your recusal. Shannon Griffo, copied here, is the contact person for recusals here in OGC/Ethics.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308

North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Thursday, September 07, 2017 4:15 PM
To: Corona, Elizabeth <Corona.Elizabeth@epa.gov>; Bahadori, Tina <Bahadori.Tina@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Chemical Sectors

Elizabeth,

I cant speak for others, but because I came from ACC, I would want to check with OGE to ensure these interactions are appropriate. As such, I've looped in Justina Fugh.

Once I have her ok, I'd be happy to engage with you to talk about the work we are doing in OCSPP and how this may be of interest to the chemicals sectors team.

Thanks Justina!

Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Corona, Elizabeth

Sent: Thursday, September 7, 2017 3:25 PM

To: Bahadori, Tina <Bahadori.Tina@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>

Subject: FW: Announcement

Hi again, Nancy, Liz, and Tina.

I wanted to follow up my previous email to let you know that the Sectors Team is officially off the ground and running! See below – Sectors Team paragraph. I am officially the chemical manufacturing contact for our team.

We had a great meeting yesterday with ACC to introduce them to the sectors concept. Our conversations focused largely on permit streamlining and regulatory reform. We didn't really touch on science during the meeting, although I'm sure it will come up in future meetings.

ACC spoke very highly of the chemical sector lead from the previous iteration of the Sector Strategies program. They also indicated that, for the most part, they have good working relationships within EPA.

I'd love to connect with you and your folks at some point in the near future to share more about what's happening with the sectors team and make sure we're taking a coordinated approach to engaging with outside folks. We're still in the very early stages of setting things up. We'd love to get your input early on so we can incorporate it into our plans before we get too far along.

I'm free Monday, Tuesday, and Wednesday next week between 1-3pm each day. Please let me know if you have a half hour during one of those slots for us to connect in person.

Elizabeth

--

Elizabeth Corona, PhD, MBA

Office of Policy | Immediate Office

U.S. Environmental Protection Agency

(Desk) 202-564-8356

From: Kime, Robin **On Behalf Of** Dravis, Samantha

Sent: Wednesday, September 06, 2017 8:17 PM

To: OP-Everyone <OPEveryone@epa.gov>

Subject: Announcement

Dear Colleagues,

For the past several months I've had the pleasure of learning about the many ways the Office of Policy (OP) contributes to the mission of the Environmental Protection Agency. The analysis and support we provide for the agency's most critical functions is of the utmost importance to me. As a cross-media and cross-agency office, I believe that the following changes to OP's organization will enhance our ability to advance Administrator Pruitt's priorities in line with EPA's mission to protect human health and the environment.

Office of Environmental Justice (OEJ): In order to better serve overburdened communities, OEJ will join the Office of Policy. OEJ will work in partnership with the Office of Sustainable Communities, which will be renamed the Office of Community Revitalization. It is important to both Administrator Pruitt and myself that the most underserved and overburdened communities have a meaningful say in environmental protection and regulation. EPA has, and will continue to consider and incorporate environmental justice concerns into our regulatory process and this move enhances our ability to achieve this core function. It will also enable EPA's EJ program to maximize its ability to support meaningful engagement and public participation across the agency and lead federal level coordination to consider overburdened community needs and the application of federal resources to meet those needs. Moving OEJ to OP allows OECA, where OEJ was previously located, to focus on its mission of enforcement and compliance assurance.

Office of Federal Activities (OFA): OFA will join the Office of Policy where it will continue to carry out its vital responsibilities under the National Environmental Policy Act (NEPA). Also

within OFA will be a Permitting Policy Division to build on the successful streamlining efforts in the NEPA program. Together, these organizations will focus on two of the Administration's top priorities: expediting federal infrastructure projects and streamlining permitting processes. This move will reform the agency's permitting and NEPA roles that will streamline the entire environmental review process and reduce subjectivity, providing our stakeholders with more clarity and certainty on their projects; ensure staff are able to quickly elevate high visibility issues to the Administrator for resolution; coordinate with the permitting AAs which will allow the agency to drive solutions to expedite the entire environmental review process, as directed by the President under Executive Order 13766, under one central office; and continue the progress that has already been made to strengthen the NEPA program and our partnerships with our sister federal agencies. OFA staff who work on hazardous waste transport issues will move to the Office of Land and Emergency Management, where complementary work resides.

Sectors Team: I have established a Sectors Team within the Office of Policy's Immediate Office to work with staff across OP and the agency. The Sectors Team will develop strategies that better protect human health and the environment by engaging with partners at all levels to ensure the agency puts forth sensible regulations that encourage economic growth. This team will coordinate with stakeholders to better understand their needs and challenges so as to improve environmental performance and inform smarter and more predictable rulemaking. This work will build upon our experience with the Sector Strategies Program as well as our ongoing work in regulatory and permitting reform.

Operations Office: Over the course of the last year, the Operations Team in the OP Immediate Office started efforts to streamline and improve our administrative and operational activities. To further these efforts, I have established an Operations Office, through which we will consolidate our operations and administrative support functions, leading to increased efficiency and enhanced processes.

Office of Strategic Environmental Management: To fully staff OP's priorities, including the new functions noted above, many OSEM staff will be reassigned to OFA, ORPM, NCEE, and other areas where additional staffing is critical to meeting OP's core mission and the Administration's goals. I appreciate the unique skills and leadership OSEM has brought to numerous cross-cutting EPA priorities over the years and believe that OP's new organizational structure will allow us to better harness their talents. The team will concentrate on streamlining the agency's operations, especially in programmatic areas such as permitting.

The new responsibilities outlined here are a testament to OP's valued expertise and its many past successes. I am excited about the new opportunities for OP, and how we can help the agency achieve its mission of protecting human health and the environment more efficiently and effectively for the American people.

Samantha

To: Corona, Elizabeth[Corona.Elizabeth@epa.gov]; Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Fugh, Justina
Sent: Tue 9/12/2017 1:33:54 PM
Subject: RE: Chemical Sectors

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Elizabeth Corona, PhD, MBA

Office of Policy | Immediate Office

U.S. Environmental Protection Agency

(Desk) 202-564-8356

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Office of Policy | Immediate Office

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(Desk) 202-564-8356

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Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

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Elizabeth

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Elizabeth Corona, PhD, MBA

Office of Policy | Immediate Office

U.S. Environmental Protection Agency

(Desk) 202-564-8356

From: Kime, Robin **On Behalf Of** Dravis, Samantha
Sent: Wednesday, September 06, 2017 8:17 PM
To: OP-Everyone <OPEveryone@epa.gov>
Subject: Announcement

Dear Colleagues,

For the past several months I've had the pleasure of learning about the many ways the Office of Policy (OP) contributes to the mission of the Environmental Protection Agency. The analysis and support we provide for the agency's most critical functions is of the utmost importance to me. As a cross-media and cross-agency office, I believe that the following changes to OP's organization will enhance our ability to advance Administrator Pruitt's priorities in line with EPA's mission to protect human health and the environment.

Office of Environmental Justice (OEJ): In order to better serve overburdened communities, OEJ will join the Office of Policy. OEJ will work in partnership with the Office of Sustainable Communities, which will be renamed the Office of Community Revitalization. It is important to both Administrator Pruitt and myself that the most underserved and overburdened communities have a meaningful say in environmental protection and regulation. EPA has, and will continue to consider and incorporate environmental justice concerns into our regulatory process and this move enhances our ability to achieve this core function. It will also enable EPA's EJ program to maximize its ability to support meaningful engagement and public participation across the agency and lead federal level coordination to consider overburdened community needs and the application of federal resources to meet those needs. Moving OEJ to OP allows OECA, where OEJ was previously located, to focus on its mission of enforcement and compliance assurance.

Office of Federal Activities (OFA): OFA will join the Office of Policy where it will continue to carry out its vital responsibilities under the National Environmental Policy Act (NEPA). Also within OFA will be a Permitting Policy Division to build on the successful streamlining efforts in the NEPA program. Together, these organizations will focus on two of the Administration's top priorities: expediting federal infrastructure projects and streamlining permitting processes. This move will reform the agency's permitting and NEPA roles that will streamline the entire environmental review process and reduce subjectivity, providing our stakeholders with more clarity and certainty on their projects; ensure staff are able to quickly elevate high visibility issues to the Administrator for resolution; coordinate with the permitting AAs which will allow the agency to drive solutions to expedite the entire environmental review process, as directed by the President under Executive Order 13766, under one central office; and continue the progress that has already been made to strengthen the NEPA program and our partnerships with our sister federal agencies. OFA staff who work on hazardous waste transport issues will move to the Office of Land and Emergency Management, where complementary work resides.

Sectors Team: I have established a Sectors Team within the Office of Policy's Immediate Office to work with staff across OP and the agency. The Sectors Team will develop strategies that better protect human health and the environment by engaging with partners at all levels to ensure the agency puts forth sensible regulations that encourage economic growth. This team will coordinate with stakeholders to better understand their needs and challenges so as to improve environmental performance and inform smarter and more predictable rulemaking. This work will build upon our experience with the Sector Strategies Program as well as our ongoing work in regulatory and permitting reform.

Operations Office: Over the course of the last year, the Operations Team in the OP Immediate Office started efforts to streamline and improve our administrative and operational activities. To further these efforts, I have established an Operations Office, through which we will consolidate our operations and administrative support functions, leading to increased efficiency and enhanced processes.

Office of Strategic Environmental Management: To fully staff OP's priorities, including the new functions noted above, many OSEM staff will be reassigned to OFA, ORPM, NCEE, and other areas where additional staffing is critical to meeting OP's core mission and the Administration's goals. I appreciate the unique skills and leadership OSEM has brought to numerous cross-cutting EPA priorities over the years and believe that OP's new organizational structure will allow us to better harness their talents. The team will concentrate on streamlining the agency's operations, especially in programmatic areas such as permitting.

The new responsibilities outlined here are a testament to OP's valued expertise and its many past successes. I am excited about the new opportunities for OP, and how we can help the agency achieve its mission of protecting human health and the environment more efficiently and effectively for the American people.

Samantha

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Griffo, Shannon[Griffo.Shannon@epa.gov]
From: Beck, Nancy
Sent: Wed 10/11/2017 9:32:59 PM
Subject: RE: draft for your review
Nancy Beck draft impartiality determination for review.nbb.docx

Justina,

Greetings from the very rainy Helsinki, where I'm certain everyone has a vitamin D deficiency!

Thanks for sending this along. A few comments are in the attached. Not sure if they will change anything substantive, but thought I should clarify...

Thanks,

Nancy

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Fugh, Justina
Sent: Wednesday, October 11, 2017 1:55 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: draft for your review

Hey Nancy,

Here is the draft impartiality determination to allow you to participate in the litigation in which ACC has intervened. Both you and Kevin Minoli are out of the office until Friday, so Shannon and I thought we would send this draft to you for a quick review. We need to be sure that we've correctly explained your prior role with respect to the litigation, for example. Anyway, look this over and, if you have any changes or comments, you and I can talk about them when you return. Once we have your comments, we can put the final in front of Kevin to sign.

Safe travels!

justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Griffo, Shannon
Sent: Tue 10/10/2017 5:44:44 PM
Subject: updated Nancy Beck impartiality determination
Nancy Beck draft impartiality determination 10 10 17.docx

Here's a revised version with a chart of the cases.

Shannon Griffo

Ethics Attorney

Office of General Counsel, Ethics

U.S. Environmental Protection Agency

(202) 564-7061

Griffo.Shannon@epa.gov

From: Fugh, Justina
Sent: Wednesday, October 04, 2017 11:24 PM
To: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: FW: TSCA petitions - order re ACC intervening

Did I send this to you already? It's also for that beck impartiality thing.

From: Thaler, Elizabeth
Sent: Friday, September 29, 2017 8:43 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Celeste, Laurel <celeste.laurel@epa.gov>; Grant, Brian <Grant.Brian@epa.gov>; Mclean, Kevin <Mclean.Kevin@epa.gov>
Subject: RE: TSCA petitions - order re ACC intervening

Hi Justina,

The case is *Environmental Defense Fund v. EPA*, No. 17-1201 (D.C. Cir. filed Sept. 1, 2017); it involves a challenge to the TSCA Inventory Notification (Active-Inactive) Requirements rule and is pending in the DC Circuit Court of Appeals. We've been informed that ACC and several others plan to file a motion to intervene on Oct. 2, 2017. Please let me know if you need any additional information.

Thanks,
Liz

Elizabeth Thaler

Attorney-Advisor

Pesticides and Toxic Substances Law Office

EPA Office of General Counsel

(202) 564-1608

From: Mclean, Kevin

Sent: Thursday, September 28, 2017 5:23 PM

To: Grant, Brian <Grant.Brian@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>

Cc: Celeste, Laurel <celeste.laurel@epa.gov>; Thaler, Elizabeth <thaler.elizabeth@epa.gov>

Subject: RE: TSCA petitions - order re ACC intervening

Justina—Just so you know, we found out today ACC, API and others have stated an intent to intervene in another TSCA case, which Liz Thaler is handling.

Liz—can you please forward Justina the information on the inventory case (name, no, court) so that she has it and can factor it into her ethics determinations for Nancy Beck? Thanks.

From: Grant, Brian

Sent: Thursday, September 28, 2017 5:03 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>

Subject: Fw: TSCA petitions - order re ACC intervening

Hi Justina. Per the following, the court in the TSCA risk evaluation rule case granted ACC's motion to intervene. I thought you should know about this, in light of Nancy Beck's recusal from this case.

Brian Grant
Office of General Counsel
202-564-5503

From: Celeste, Laurel
Sent: Thursday, September 28, 2017 4:37 PM
To: Fotouhi, David; Mclean, Kevin; Grant, Brian
Subject: FW: TSCA petitions - order re ACC intervening

I can't recall whether I forwarded this on; apologies if so

From: Zilioli, Erica (ENRD) [<mailto:Erica.Zilioli@usdoj.gov>]
Sent: Thursday, September 28, 2017 11:49 AM
To: Celeste, Laurel <celeste.laurel@epa.gov>
Cc: Spence, Samara (ENRD) <Samara.Spence@usdoj.gov>
Subject: TSCA petitions - order re ACC intervening

Laurel,

The Fourth Circuit granted ACC's motion to intervene. The order is attached.

Thanks,
Erica

Erica M. Zilioli
Senior Attorney

U.S. Department of Justice

Environmental Defense Section

202.514.6390

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Griffo, Shannon
Sent: Tue 10/3/2017 12:39:51 PM
Subject: RE: Request for info
Nancy Beck draft impartiality determination 10 3 17.docx

I updated my draft with the case information and Nancy's request to also include the TSCA inventory reset rule. It's also on the I drive.

Thanks,

Shannon

Shannon Griffo

Ethics Attorney

Office of General Counsel, Ethics

U.S. Environmental Protection Agency

(202) 564-7061

Griffo.Shannon@epa.gov

From: Fugh, Justina
Sent: Monday, October 02, 2017 5:27 PM
To: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: FW: Request for info

Trying to find all of the info for that Nancy Beck impartiality determination.

From: Celeste, Laurel
Sent: Thursday, September 28, 2017 6:03 PM
To: Mclean, Kevin <Mclean.Kevin@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>

Subject: RE: Request for info

So what I had sent you earlier was the consolidated case information. If you want what was originally filed:

Alliance of Nurses for Healthy Environments v. EPA, No. 17-1926 (4th Cir.)(Risk Evaluation Rule)

Alliance of Nurses for Healthy Environments v. EPA, No. 17-1927 (4th Cir.)(Prioritization Rule)

Environmental Defense Fund v. EPA, No. 17-2464 (2d Cir.) (Risk Evaluation Rule);

Environmental Defense Fund v. EPA, No. 17-2403 (2d Cir.) (Prioritization Rule);

Safer Chemicals Healthy Families v. EPA, No. 17-72259 (9th Cir.) (Risk Evaluation Rule);

Safer Chemicals Healthy Families v. EPA, No. 17-72260 (9th Cir.) (Prioritization Rule).

From: Celeste, Laurel

Sent: Thursday, September 28, 2017 12:24 PM

To: Mclean, Kevin <Mclean.Kevin@epa.gov>

Cc: Fugh, Justina <Fugh.Justina@epa.gov>

Subject: RE: Request for info

Sure:

Alliance of Nurses for Healthy Environments, et al v EPA, No. 17-1926, consolidated with 17-2040, 4th Cir.

Safer Chemicals Healthy Families et al v EPA, No 17-72260, 9th Cir

EDF v EPA, No 17-72501, 9th Cir

Justina—knock on the wall if this isn't what you need

From: Mclean, Kevin
Sent: Thursday, September 28, 2017 12:06 PM
To: Celeste, Laurel <celeste.laurel@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Request for info

Laurel—

Can you please send Justina the basic information on all the risk evaluation and prioritization cases—names, docket numbers, etc.

Thanks.

Kevin McLean

Associate General Counsel

Pesticides and Toxic Substances Law Office

Office of General Counsel

U.S. Environmental Protection Agency

(202) 564-5564

To: Duross, Jeanne[Duross.Jeanne@epa.gov]
From: Fugh, Justina
Sent: Fri 9/8/2017 5:12:11 PM
Subject: FW: Determination regarding Nancy Beck today
[Recusal Statement Beck.pdf](#)
[Impartiality determination final.pdf](#)

Forgot to cc you. I was out of the office Friday am to **Ex. 6 - Personal Privacy** so was AWOL from reviewing messages.

From: Fugh, Justina
Sent: Friday, September 08, 2017 12:25 PM
To: Grant, Brian <Grant.Brian@epa.gov>; Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>; Morris, Jeff <Morris.Jeff@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>
Cc: Beck, Nancy <beck.nancy@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: Determination regarding Nancy Beck today

Hi there,

Set forth below is the determination that I made earlier today about whether Dr. Nancy Beck may participate in discussions about a lawsuit in which we now know of ACC's intention to intervene. As you know, Dr. Beck is not a political appointee so is not subject to the terms of Executive Order 13,770, nor is she an attorney subject to state bar rules. As an Administratively Determined appointee, Dr. Beck is, however, subject to the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR Part 2635, and the impartiality standards regarding her former employer, ACC.

At this time, Dr. Beck is recused from any participation in the lawsuit now that we know ACC intends to intervene.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Friday, September 08, 2017 12:21 PM
To: Beck, Nancy <beck.nancy@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

Hi Nancy,

I was out of the office this morning to **Ex. 6 - Personal Privacy** and have a strict rule that I don't read emails or text while driving! Consequently, I didn't see your message until I got into the office. I did talk to Brian Grant, who explained that ACC, the entity with whom you have a covered relationship pursuant 5 CFR 2635.502(b)(iv), has filed a motion to intervene in a lawsuit. Although the court has not yet ruled on that motion, we are now on notice about ACC's intention. For ethics purposes, the lawsuit is a specific party matter and your recusal indicates that you will not participate in any such matter in which ACC is a party or represents a party unless you first seek approval from OGC/Ethics. The terms of your 6/9/17 recusal and the 6/8/17 impartiality determination do not extend to your participation in this lawsuit now that we know ACC plans to participate as a specific party. You are not permitted to participate in this litigation going forward, and cannot participate in the phone call later today.

You may ask OGC/Ethics to consider issuing an impartiality determination. We will consider your request and apply the regulatory factors set forth at 5 CFR 2635.502(d): (1) the nature of the relationship involved; (2) the effect that resolution of the matter would have upon the financial interests of the person involved in the

relationship; (3) the nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in

the matter; (4) the sensitivity of the matter; (5) The difficulty of reassigning the matter to another employee; and (6) adjustments that may be made in

the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

To be clear, until such time as OGC/Ethics issues you any impartiality determination – and I am not yet indicating that we would – you cannot participate in this litigation.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beck, Nancy
Sent: Friday, September 08, 2017 7:35 AM
To: Grant, Brian <Grant.Brian@epa.gov>
Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>; Morris, Jeff <Morris.Jeff@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>
Subject: RE: Conversation with DOJ -- ACC involvement

Great—lets find a window. I think that after 11:30 I could generally make it work and move meetings around.

Regarding participation, I refer to OGE on that and am looping in Justina. ACC commented on the proposed rule and I was allowed to participate on the final rule so I'm not exactly sure how this is similar/different.

However, I would think that until they actually intervene, there should be no concern.

Thanks.

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

P: 202-564-1273

M: (b) (6)

beck.nancy@epa.gov

From: Grant, Brian

Sent: Friday, September 8, 2017 7:32 AM

To: Beck, Nancy <Beck.Nancy@epa.gov>

Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>;
Morris, Jeff <Morris.Jeff@epa.gov>

Subject: Conversation with DOJ -- ACC involvement

Good morning, Nancy. The DOJ attorneys working on the prioritization and RE cases have approval to talk with you about consolidation and can do so this morning.

However, they have received notice that ACC plans to intervene in the case. Can you participate?

Brian Grant
Office of General Counsel
202-564-5503

From: [Fugh, Justina](#)
To: [Minoli, Kevin](#)
Cc: [Griffo, Shannon](#)
Subject: and here is the revision, with the more robust conclusory sentence
Date: Thursday, January 11, 2018 3:44:00 PM
Attachments: [Nancy Beck impartiality determination for signature 1_11_18.docx](#)

TRAVEL REQUEST/TRAVEL EXPENSE VOUCHER

1313 Dolley Madison Blvd, Suite 402
McLean, VA 22101
703 790 1745 (FAX: 703 790 2672)

Appr.: _____

Fnd. No.: _____

Ck. No.: _____

TRAVEL POLICY

1. No travel shall be reimbursed without the prior written approval of the Executive Secretary.
2. Approved travel will be reimbursed on the basis of the most direct expeditious mode of travel.
 - A. **By air:** 14-21 day advance purchase is required. Lowest fare option should be used. Where possible, Saturday stopover should be booked. Up to \$20 is allowed for personal life insurance.
 - B. **By rail or bus:** Bus and rail transportation will be reimbursed. Costs resulting from use of rail or bus shall not exceed equivalent travel by air.
 - C. **Private auto:** When private autos are authorized, reimbursement will be made at the allowable IRS rate per mile for business use. Costs resulting from use of private vehicles shall not exceed equivalent travel by air.
3. The use of rental cars must have prior approval.
4. The actual cost of lodging shall not exceed the single room rate for economically reasonable accommodations. Reimbursement for meals shall be limited to \$50 per day and will be reimbursed on an itemized actual cost basis only. Appropriate receipts for accommodations and meals are to be attached to the travel voucher.
5. Miscellaneous costs such as taxi, limo, and telephone are allowed with an itemized listing of these costs with appropriate receipts attached. Personal expenses, such as laundry, valet and registration are not allowed.
6. When appropriate, charges should be adjusted on an equitable basis because of business for other than the Company.

TRAVEL REQUEST

Name: _____

Address: _____

Purpose of Trip: _____

Place, Date of Meeting: _____

Time, Date, Place and mode of departure: _____

Time, Date, Place and mode of return: _____

TOTAL ANTICIPATED COST \$ _____

Signature

Date

TRAVEL REQUEST (Please itemize on reverse side)

Costs of Transportation (receipts req'd)	\$
Taxi (itemized)	\$
Lodging (receipts required)	\$
Meals (receipts required)	\$
Miscellaneous (itemized; receipts req'd)	\$
TOTAL	\$

TRAVEL PROCEDURES

- A. Submit Form for approval of Travel Request. Form will be returned to you.
- B. At completion of trip, re-submit Form for reimbursement.

Signature

Date

From: [Fugh, Justina](#)
To: [Beck, Nancy](#)
Cc: [Griffo, Shannon](#)
Subject: draft for your review
Date: Wednesday, October 11, 2017 1:55:00 PM
Attachments: [Nancy Beck draft impartiality determination for review.docx](#)

Hey Nancy,

Here is the draft impartiality determination to allow you to participate in the litigation in which ACC has intervened. Both you and Kevin Minoli are out of the office until Friday, so Shannon and I thought we would send this draft to you for a quick review. We need to be sure that we've correctly explained your prior role with respect to the litigation, for example. Anyway, look this over and, if you have any changes or comments, you and I can talk about them when you return. Once we have your comments, we can put the final in front of Kevin to sign.

Safe travels!

justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: [Beck, Nancy](#)
To: [Fugh, Justina](#)
Cc: [Bolen, Derrick](#)
Subject: Fwd: SRA 2018 Fellows Award
Date: Tuesday, August 28, 2018 6:30:25 AM
Attachments: [BAI Travel Reimbursement Form.pdf](#)
[ATT00001.htm](#)

Justina,
Can I accept the coverage of travel/lodging expenses etc to accept this award?
Thanks,
Nancy.

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator
Office of Chemical Safety and Pollution Prevention
P: [202-564-1273](tel:202-564-1273)
M: (b) (6)
beck.nancy@epa.gov

Begin forwarded message:

From: Jill Drupa <jdrupa@burkinc.com>
Date: August 28, 2018 at 2:25:35 AM GMT+1
To: "Beck, Nancy" <Beck.Nancy@epa.gov>
Cc: Pamela Williams <pwilliams@erisksciences.com>, Terje Aven
<terje.aven@uis.no>, Mary Lou Scarbrough <mscarbrough@burkinc.com>
Subject: SRA 2018 Fellows Award

Dear Dr. Beck,

As you are aware, you have been awarded the **Society for Risk Analysis 2018 Fellows Award**, which is granted in recognition of your substantial achievement in science or public policy relating to risk analysis and substantial service to the Society. Congratulations!

The award will be presented at the SRA Annual Meeting at the awards luncheon on Tuesday, 4 December 2018, in New Orleans, Louisiana, USA. SRA President Terje Aven and President-Elect Katherine McComas will conduct the awards luncheon.

You can see the list of past awardees at: <http://www.sra.org/awards> .

As an awardee, your transportation, lodging and registration expenses in connection with the SRA meeting will be covered by the SRA.

To Register - please click [HERE](#). If you have already registered, please let us know and we can reimburse your registration fee. Please note, if you would like to take advantage of one of our great Workshops, please register separately (and at your expense) [here](#). We have some new offerings this year.

Lodging - please email Mary Lou back with your arrival and departure dates, and SRA will put your room and tax charges on the master account at the [New Orleans Marriott](#).

Transportation - Please see the attached form to assist with transportation expenses. Please take care of your transportation and submit receipts electronically for reimbursement - the SRA typically reimburses about two weeks after the meeting and once receipts are received. If you require a different arrangement, please let us know.

If you have any questions, please contact **Mary Lou Scarbrough** at mscarbrough@burkinc.com.

Please notify us of your acceptance of this award, and **please let us know about your hotel dates by emailing Mary Lou Scarbrough (mscarbrough@burkinc.com)**.

Again, congratulations, and we look forward to seeing you soon.

Best regards,

Jill Drupa
Director of Administration
Society for Risk Analysis
1313 Dolley Madison Boulevard
Suite 402
McLean, Virginia 22101
www.SRA.org

From: [Fugh, Justina](#)
To: [Minoli, Kevin](#)
Subject: here you go (without our changes to the conclusory paragraph)
Date: Thursday, January 11, 2018 3:39:00 PM
Attachments: [Nancy Beck impartiality determination for signature 1_11_18.docx](#)

From: [Fugh, Justina](#)
To: [Griffo, Shannon](#)
Subject: I incorporated Nancy's changes ...
Date: Sunday, October 15, 2017 2:13:00 AM
Attachments: [Nancy Beck impartiality determination for signature.docx](#)

Can you do one more spell check and then give this to Kevin for signature?

Thanks!

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: [Fugh, Justina](#)
To: [Griffo, Shannon](#)
Subject: RE: Beck Impartiality Det
Date: Wednesday, January 10, 2018 6:09:00 PM
Attachments: [Nancy Beck impartiality determination 1 10 18.docx](#)

And here is my slightly edited version of the Beck determination. More for Kevin to sign!

Once you've scrutinized the pile (Leopold imp det, Beck imp det, Leopold recusal), let me know and I'll put them into the correspondence system or show you how to do it. And I'll add to the agenda for Thursday.

From: Griffo, Shannon
Sent: Thursday, January 04, 2018 9:33 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Beck Impartiality Det

Justina,


When you get a chance, see if this draft addresses all of Kevin's comments below.

Thanks,
Shannon


From: Minoli, Kevin
Sent: Friday, December 29, 2017 9:43 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Cc: Packard, Elise <Packard.Elise@epa.gov>
Subject: Beck Impartiality Det

Hi Justina and Shannon- Thank you for the draft.

I would like (b) (5)



In my mind, (b) (5)



Let me know if what I'm asking for or what I am hoping to achieve with the change is not clear and I'm happy to have a call today to better articulate my thinking.

Finally, I did not (b) (5)



Thanks for the continued work on these. Let me know if you have questions.

Kevin

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

From: [Fugh, Justina](#)
To: [Hanley, Mary](#)
Cc: [McLean, Kevin](#)
Subject: Re: Recusal Briefing
Date: Saturday, November 25, 2017 3:40:25 PM

Hi Mary,
Charlotte who? And it'll be best if Kevin McLean and my ethics team do this briefing together. I know the parameters of the recusal, but Kevin knows the cases.
Justina

Sent from my iPhone

On Nov 24, 2017, at 8:41 AM, Hanley, Mary <Hanley.Mary@epa.gov> wrote:

Hi. Charlotte would like a briefing from OGC on the TSCA cases that Nancy Beck is recused from. Would that be your shop Justina? or Kevin?

Thanks

M

From: [Fugh, Justina](#)
To: [Hanley, Mary](#); [Mclean, Kevin](#)
Subject: RE: Recusal Briefing
Date: Tuesday, November 28, 2017 4:01:00 PM

And for my group, it's Shannon Griffo and me, please.

From: Hanley, Mary
Sent: Tuesday, November 28, 2017 2:37 PM
To: Mclean, Kevin <Mclean.Kevin@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Recusal Briefing

Hi, please include Louise Wise, me, Jeff Morris and Tanya Motley. Thanks!

From: Mclean, Kevin
Sent: Monday, November 27, 2017 9:52 AM
To: Hanley, Mary <Hanley.Mary@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Recusal Briefing

We can handle the scheduling. Mary—who besides Charlotte from your end should be included?

Justina—can you let me know who to include from your group? Thanks.

From: Hanley, Mary
Sent: Monday, November 27, 2017 9:02 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>
Subject: RE: Recusal Briefing

Charlotte Betrand, the Acting Principal Deputy AA, OCSPP. OK, since there are only 2 of us does OGC want to schedule it over there?

From: Fugh, Justina
Sent: Saturday, November 25, 2017 3:40 PM
To: Hanley, Mary <Hanley.Mary@epa.gov>
Cc: Mclean, Kevin <Mclean.Kevin@epa.gov>
Subject: Re: Recusal Briefing

Hi Mary,
Charlotte who? And it'll be best if Kevin McLean and my ethics team do this briefing together. I know the parameters of the recusal, but Kevin knows the cases.
Justina

Sent from my iPhone

On Nov 24, 2017, at 8:41 AM, Hanley, Mary <Hanley.Mary@epa.gov> wrote:

Hi. Charlotte would like a briefing from OGC on the TSCA cases that Nancy Beck is recused from. Would that be your shop Justina? or Kevin?

Thanks

M

From: [Fugh, Justina](#)
To: [Hofmann, Angela](#); [Grant, Brian](#)
Subject: signed impartiality determination for Nancy Beck
Date: Monday, January 15, 2018 10:12:00 PM
Attachments: [Beck Impartiality Signed.pdf](#)

Hi there,

Last week, Kevin Minoli signed a second impartiality determination for Nancy Beck. See attached for your information.

Justina

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